BREVIER

LEGISLATIVE REPORTS:

EMBRACING

SHORT-HAND SKETCHES

OF THE

JOURNALS AND DEBATES

OF THE

General Assembly of the State of Indiana,

SPECIAL SESSION OF 1872.

By A. E. & W. H. DRAPIER, Reporters

VOL. XIII.

INDIANAPOLIS:
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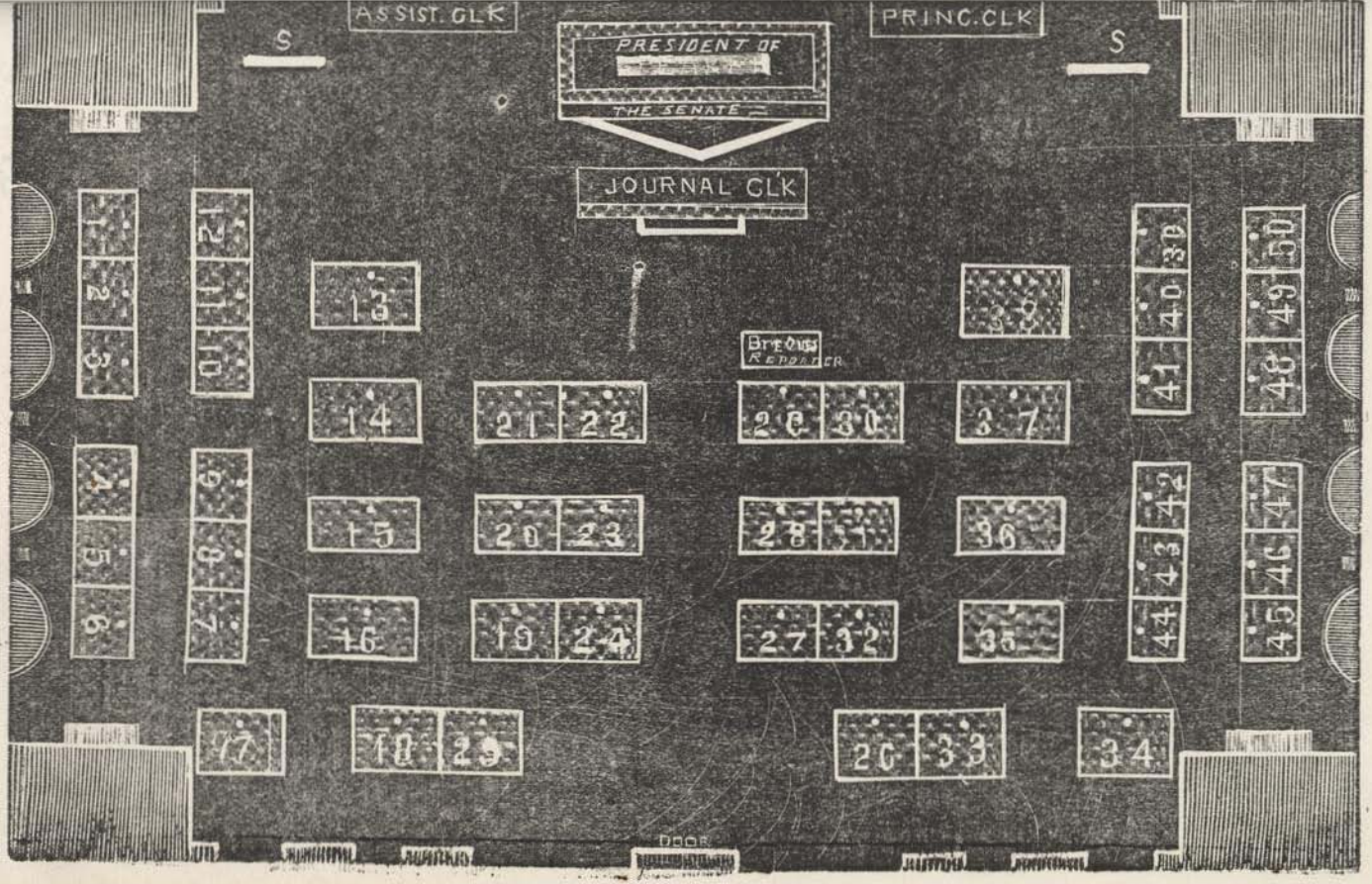
1872.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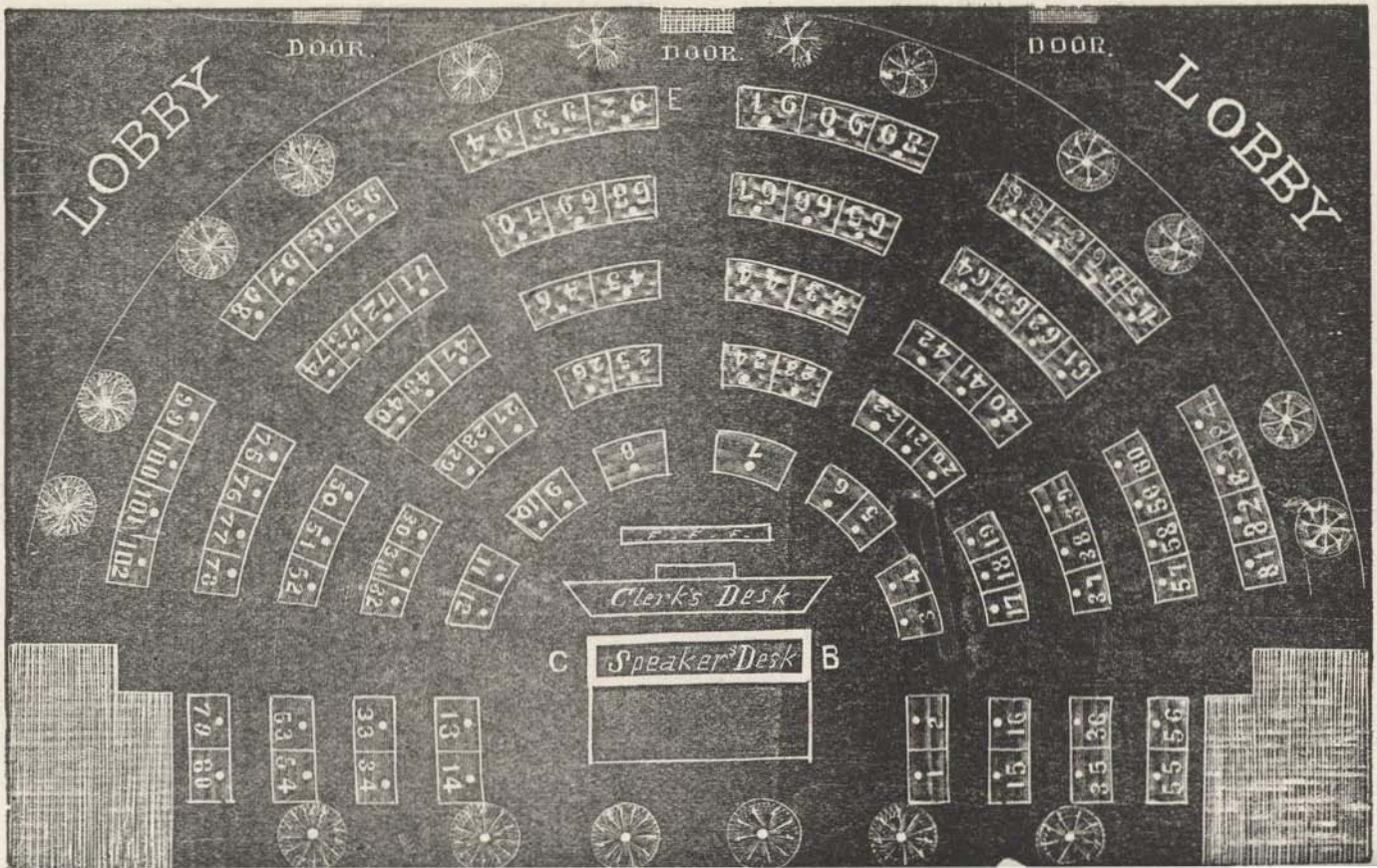
KEY TO THE DIAGRAM

of the

Indiana Senate Chamber.

President—GEO. W. FRIEDLEY, of Lawrence county. *Principal Secretary*—D. H. OLIVE, of Boone county. *Assistant Secretary*—P. P. CULVER, of Tippecanoe county. *Doorkeeper*—THEO. W. PEAS, of Marion county. S—Sofa and chairs.
Reporter for the Brevier Legislative Reports—W. H. DRAPIER, of Indianapolis.

Desk	*The Member occupying it.*
1.	R. M. Haworth, Union and Fayette counties.
2.	J. F. Harney, Montgomery county.
3.	A. F. Armstrong, Howard and Carroll counties.
4.	William Bunyan, Noble and Lagrange counties.
5.	William R. Hough, Hancock and Henry counties.
7.	Andrew J. Boone, Boone and Clinton counties.
8.	Henry Taylor, Tippecanoe county.
9.	W. P. Rhodes, Warren and Fountain counties.
10.	J. D. Sarninghausen, Allen and Adams counties.
11.	Othniel Beeson, Wayne.
12.	W. I. Howard, Steuben and DeKalb counties.
13.	R. S. Dwiggins, Jasper, Pulaski, White, Benton and Newton c'ties.
14.	William O'Brien, Hamilton and T pton counties.
15.	L. Hubbard, St. Joseph and Marshall counties.
16.	R. C. Wadge, Lake and Porter counties.
17.	H. D. Scott, Vigo county.
18.	John Collett, Vermillion and Parke counties.
19.	James R. Beardsley, Elkhart county.
20.	W. C. Thompson, Marion and Porter counties.
21.	A. J. Neff, Randolph county.
22.	George B. Sleeth, Rush and Decatur counties.
23.	D. H. Oliver, Marion county.
24.	Addison Daggy, Putnam and Hendricks counties.
25.	H. Clay Gooding, Vanderburg and Ohio counties.
26.	James D. Williams, Knox and Daviess counties.
27.	J. H. Winterbotham, Laporte and Starke counties.
28.	James Orr, Delaware and Madison counties.
29.	C. W. Chapman, Kosciusko and Wabash counties.
30.	M. K. Rosebrough, Ripley and Switzerland counties.
31.	J. H. Friedley, Scott and Jennings counties.
32.	Ochmig Bird, Allen county.
33.	M. T. Carnahan, Posey and Gibson counties.
34.	Asbury Steele, Grant, Blackford and Jay counties.
35.	W. E. Dittemore, Owen and Greene counties.
36.	Hugh Daugherty, Wells and Huntington counties.
47.	R. O. Gregg, Dearborn county.
38.	Jason B. Brown, Jackson and Brown counties.
39.	M. R. Slater, Johnson and Morgan counties.
40.	M. B. Ringo, Clay and Sullivan counties.
41.	O. J. Glessner, Shelby and Bartholomew counties.
42.	Leroy Cave, Dubois, Pike and Martin counties.
43.	Benoni S. Fuller, Warrick and Spencer counties.
44.	John A. Bowman, Washington and Harrison counties.
45.	Milo R. Smith, Fulton and Cass counties.
46.	John Stroud, Crawford, Perry and Orange counties.
47.	John Biggs, Franklin county.
48.	Hiram Francisco, Jefferson county.
49.	A. W. Hall, Clarke county.
50.	Robert Miller, Miami and Wabash counties.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LOBBY
E
Clerk's Desk
C
Speaker's Desk
B

Kev to the Diagram of the Hall of the HOUSE OF REPRESENTATIVES.

Speaker—Hon. W. K. EDWARDS, of Vigo county. **B** *Principal Clerk*—CYRUS T. NIXON, of Floyd county. **C** *Asst. Clerk*—M. G. MCLAIN, of Marion county. **E** *Doorkeeper*—W. T. LOCKHART, of Hendricks county. **F** *Reporter Brevier Legislative Reports*—A. DRAPIER, of St. Joseph co.

Desk	*The Member occupying it.*
1.	C. W. Anderson, Cass county.
2.	H. A. Peed, Martin and Dubois counties.
3.	Israel Goble, Franklin county.
4.	Samuel S. Shutt, DeKalk county.
5.	Jeff. C. Bowser, Allen county.
6.	Mahlon Heller, Allen county.
7.	J. H. Willard, Floyd county.
8.	L. D. Glazebrook, Starke and Laporte counties.
9.	Daniel Blocher, Scott, Jefferson and Clark counties.
.	Joseph Baker, Clark county.
1.	L. C. Walker, Wayne county.
12.	Charles G. Offutt, Hancock county.
13.	Martin Wood, Lake county.
14.	William Thompson, Spencer county.
15.	James Rudder, Washington county.
19.	J. O. Hardesty, Madison and Henry counties.
17.	C. B. Tulley, Whitley county.
18.	M. M. Martin, Boone and Clinton counties.
16.	John McConnell, Adams and Wells counties.
20.	J. D. Thayer, Kosciusko county.
21.	J. E. Rumsey Tipton and Hamilton counties.
22.	H. Satterwhite, Morgan county.
23.	W. B. Smith, Putnam county.
24.	James A. Hatch, Newton, Pulaski and Jasper counties.
25.	H. W. Edwards, Lawrence county.
26.	E. S. Lenfesty, Grant county.
27.	Geo. Wolflin, Vanderburgh county.
28.	Jas. D. Riggs, Vanderburgh county.
29.	W. H. Gifford, Clay county.
30.	J. E Woodard, Parker county.
31.	C. S. Wesner, Boone county.
32.	N. T. Butts, Randolph county.
33.	Elihu Hollingsworth, Tippecanoe
34.	P. S. Troutman, Fulton and Kosciusko counties.
35.	T. N. Jones, Madison county.
36.	A. Wilson, Jay and Blackford counties.
37.	H. C. Stanley, Noble county.
38.	J. W. Whitworth, Posey county.
39.	B. C. Branham, Jefferson county.
40.	W. W. Butterworth, St. Joseph county.
41.	A. C. Mellett, Delaware county.
42.	J. E. Thompson, Elkhart county.
43.	N. S. Givan, Dearborn county.
44.	J. J. W. Billingsley, Marion county.
45.	Edward King, Marion county.
46.	A. Furnas, Hendricks county.
47.	J. S. Ogden, Hendricks and Putnam counties.
48.	J. Grovendyke, Vermillion county.
49.	E. B. Glasgow, Steuben county.
50.	B. M. Cobb, Huntingtoncounty.
51.	James W. Cole, Tippecanoe county.
52.	C. V. N. Lent, Wabash and Miami counties.
53.	D. S. Scott, Noble and Elkhart counties.
54.	M. H. Clark, Hamilton county.
56.	B. North, Ohio and Switzerland counties.
57.	T. Crumpacker, Porter county.
58.	James Barker, Pike county.
60.	M. L. Brett, Daviess county.
61.	Gabriel Schmuck, Perry county.
62.	Wm. M. Ellsworth, Crawford and Orange counties.
63.	C. A. Buskirk, Gibson county.
64.	J. R. Isenhower, Greene county.
65.	F. D. Spellman, Shelby county.
66.	H. R. Claypool, Fountain county.
67.	S. J. Barrett, Bartholomew and Shelby counties.
68.	H. S. Cauthorn, Knox county.
69.	William Strange, Clinton county.
70.	T. W. Woollen, Johnson county.
71.	Nathan Kimball, Marion county.
72.	E. T. Johnson, Marion county.
73.	Patrick H. Lee, Vigo county.
74.	R. G. Odle, Warren county.
75.	Benj. F. Tingley, Rush county.
76.	William Baxter, Wayne county.
77.	Cary E. Cowgill, Wabash county.
78.	A. W. Reeves, Monroe county.
79.	T. M. Kirkpatrick, Howard county.
81.	J. T. Hedrick, Henry county.
82.	S. D. Dial, Warrick county. county.
83.	W. H. Pfrimmer, Harrison county.
84.	W. S. Shirley, Morgan and Johnson counties.
85.	Adam G. Hoyer, Ripley county.
86.	J. H. Reno, Owen county.
87.	George H. Teeter, Laporte county.
88.	R. B. Eaton, Marshall county.
89.	Joseph Henderson, St. Joseph and Marshall counties.
90.	Robert Gregory, White and Benton counties.
91.	J. P. Richardson, Carroll county.
92.	John D. Miller, Decatur and Rush counties.
93.	George Goudie, Decatur county.
94.	James M. Wynn, Jennings county.
95.	J. W. Cline, Bartholomew county.
96.	J. A. McKinney, Brown and Jackson counties.
97.	S. S. Coffman, Sullivan county.
98.	J. Y. Durham, Montgomery county.
99.	J. W. Eward, Miami county.
100.	W. H. Broaddus, Fayette and Union counties.
101.	William Prentiss, Lagrange county.
102.	Wm. D. Wilson, Ripley and Jefferson counties.

Post Office Address

—OF—

Senators of the Forty-Eighth General Assembly.

Armstrong, A. F., Howard and Carroll counties. Address, Kokomo, Howard county.

Beardsley, James R., Elkhart county; Elkhart.

Beeson, Othniel, Wayne county; Milton.

Beggs, John, Franklin county; Laurel.

Bird, Ochmig, Allen county; Fort Wayne.

Boone, Andrew J., Boone and Clinton counties; Lebanon.

Bowman, John A., Washington and Harrison counties; Salem.

Brown, Jason B., Jackson and Brown counties; Brownstown.

Bunyan, William, Noble and Lagrange counties; Kendallville.

Carnahan, M. T., Posey and Gibson counties; New Harmony.

Cave, Leroy, Dubois, Pike and Martin counties; Kellersville.

Chapman, C. W., Kosciusko and Wabash counties; Warsaw.

Collett, John, Vermillion and Parke counties; Eugene.

Daggy, Addison, Putnam and Hendricks counties; Greencastle.

Daugherty, Hugh, Wells and Huntington counties; Bluffton.

Dittemore, W. E., Owen and Greene counties; Spencer.

Dwiggins, Robert, Jasper, Pulaski, White, Benton and Newton counties; Rensselaer.

Fuller, Benoni, Warrick and Spencer counties; Booneville.

Francisco, Hiram, Jefferson county; Wirt.

Friedley, J. H., Scott and Jennings counties; Woostertown.

Glessner, O. J., Shelby and Bartholomew counties; Shelbyville.

Gooding, H. Clay, Vanderburg county; Evansville.

Gregg, R. O., Dearborn and Ohio counties; Aurora.

Hall, A. W., Clarke county; Jeffersonville.

Harney, J. F., Montgomery county; Lodoga.

Haworth, R. M., Union and Fayette counties; Liberty.

Hough, William R., Hancock and Henry counties; Greenfield.

Howard, W. I., Steuben and DeKalb counties; Angola.

Hubbard, L., St. Joseph and Marshall counties; South Bend.

Miller, Robert, Miami and Wabash counties; Peru.

Neff, A. J., Randolph county; Winchester.

O'Brien, William, Hamilton and Tipton counties; Noblesville.

Oliver, D. H., Marion county; Indianapolis.

Orr, James, Delaware and Madison counties; Selma.

Rhodes, W. P., Warren and Fountain counties; Williamsport.

Ringo, M. B., Clay and Sullivan counties; Poland.

Rosebrough, M. K., Ripley and Switzerland counties; Versailles.

Sarnighausen, J. D., Allen and Adams counties; Fort Wayne.

Scott, H. D., Vigo county; Terre Haute.

Slater, M. R., Johnson and Morgan counties; Franklin.

Sleeth, George B., Rush and Decatur counties; Rushville.

Smith, Milo R., Fulton and Cass counties Rochester.

Steele, Asbury, Grant, Blackford and Jay counties; Marion.

Stroud, John, Crawford, Posey and Orange counties; Milltown.

Taylor, Henry, Tippecanoe county; Lafayette.

Thompson, W. C., Marion county; Indianapolis.

Wadge, R. C., Lake and Porter counties; Hobart.

Williams, James D., Knox and Daviess counties; Wheatland.

Winterbotham, J. H., Laporte and Starke counties; Michigan City.

Post Office Address

—OF—

MEMBERS OF THE HOUSE OF REPRESENTATIVES

—OF THE—

FORTY-EIGHTH GENERAL ASSEMBLY.

Anderson, C. W., Cass county. Address, Royal Center, Cass county.
Baker, Joseph, Clark county; Jeffersonville.
Barker, James, Pike county; Petersburgh.
Barrett, S. J., Bartholomew and Shelby counties; Columbus.
Baxter, William, Wayne county; Richmond.
Billingsley, J. J. W., Marion county; Indianapolis.
Blocher, Daniel, Scott, Jefferson and Clark counties; Holman Station.
Bowser, Jeff. C., Allen connty; Fort Wayne.
Branham, B. C., Jefferson county; North Madison.
Brett, M. L., Daviess county; Washington.
Broaddus, W. H., Fayette and Union counties; Connersville.
Buskirk, C. A., Gibson county; Princeton.
Butterworth, W. W., St. Joseph county; Mishawaka.
Butts, N. T., Randolph county; Winchester.
Cauthorn, H. S., Knox county; Vincennes.
Clark, M. H., Hamilton county; Eagletown.
Claypool, H. R., Fountain county; Covington.
Cline, John W., Bartholomew county; Columbus.
Cobb, B. M., Huntington county; Huntington.
Coffman, S. S., Sullivan county; Sullivan.
Cole, James W., Tippecanoe county; Stockwell.
Cowgill, Cary E., Wabash county; Wabash.
Crumpacker, T., Porter county; Valparaiso.
Dial, S. D., Warrick county; Boonville.
Durham, J. Y., Montgomery county; Waveland.
Eaton, R. B., Marshall county; Argos.
Edwards, H. W., Lawrence county; Mitchell.
Ellsworth, Wm. M., Crawford and Orange counties; Leavenworth.
Eward, J. W., Miami county; Xenia.
Furnas, A., Hendricks county; Danville.
Gifford, W. H., Clay county; Brazil.
Givan, N. S., Dearborn county; Lawrenceburg.
Glasgow, E. B., Steuben county; Angolia.
Glazebrook, L. D., Starke and Laporte counties; San Pierre.
Goble, Israel, Franklin county; Andersonville.
Goudie, Geo., Decatur county; Sardinia.
Gregory, Robert, White and Benton counties; Monticello.
Grovendyke, John, Vermillion county; Eugene.
Hardesty, J. O., Madison and Henry counties; Anderson.
Hatch, James A., Newton, Pulaski and Jasper counties; Kentland.
Hedrick, J. T., Henry county; Lewisville.
Heller, Mahlon, Allen county; Monroeville.
Henderson, Joseph, St. Joseph and Marshall counties; South Bend.
Hollingsworth, Elihu, Tippecanoe county; Farmers' Institute.
Hoyer, Adam G., Ripley county; Batesville.
Isenhower, J. R., Greene county; Bloomfield.

Johnson, E. T., Marion county; Indianapolis.
Jones, T. N., Madison county; Anderson.
Kimball, Nathan, Marion county; Indianapolis.
King, Edward, Marion county; Indianapolis.
Kirkpatrick, T. M., Howard county; Kokomo.
Lee, Patrick H., Vigo county; Riley.
Lenfesty, L. S., Grant county; Marion.
Lent, C. V. N., Wabash and Miami counties; Liberty Mills.
Martin, M. M., Boone and Clinton counties; Middle Fork.
McConnell, John, Adams and Wells counties; Decatur.
McKinney, J. A., Brown and Jackson counties; Becks Grove.
Mellett, A. C., Delaware county; Muncie.
Miller, John D., Decatur and Rush counties; Greensburg.
North, B., Ohio and Switzerland counties; North Landing.
Odle, R. G., Warren county; Pine Village.
Offutt, Chas. G., Hancock county; Greenfield.
Ogden, J. S., Hendricks and Putnam counties; Danville.
Peed, H. A., Martin and Dubois counties; Loogootee.
Pfrimmer, W. H., Harrison county; Kings Cave.
Prentiss, Wm., Lagrange county; Brushy Prairie.
Reeves, A. W., Monroe county; Ellettsville.
Reno, J. H., Owen county; Quincy.
Richardson, J. P., Carroll county; Delphi.
Riggs, James D., Vanderburg county; Evansville.
Rudder, Jas., Washington county; Becks Mill.
Rumsey, J. E., Tipton and Hamilton counties; Tipton.
Satterwhite, H., Morgan county; Martinsville.
Schmuck, Gabriel, Perry county; Cannelton.
Scott, D. S., Noble and Elkhart counties; Ligonier.
Shirley, W. S., Morgan and Johnson counties; Martinsville.
Shutt, Sam. S., DeKalb county; Spencerville.
Smith, W. B., Putnam county; Greencastle.
Spellman, F. D., Shelby county; Winterrowd.
Stanley, H. C., Noble county; Albion.
Strange, Wm., Clinton county; Michigantown.
Teeter, Geo. H., Laporte county; Rolling Prairie.
Thayer, J. D., Kosciusko county; Warsaw.
Tingley, Benj. F., Rush county; Rushville.
Thompson, J. E., Elkhart county; Benton.
Thompson, Wm., Spencer county; Gentryville.
Troutman, P. S., Fulton and Kosciusko counties; Kewanna.
Tulley, C. B., Whitley county; Columbia City.
Walker, L. C., Wayne county; Richmond.
Wesner, C. S., Boone county; Lebanon.
Whitworth, J. W., Posey county; Mount Vernon.
Willard, J. H., Floyd county; New Albany.
Wilson, Wm. D., Ripley and Jefferson counties; Versailles.
Wilson, A., Jay and Blackford counties; Dunkirk.
Wood, Martin, Lake county; Crown Point.
Woodard, J. E., Parker county; Bloomingdale.
Wolflin, Geo., Vanderburg county; Evansville.
Woollen, T. W., Johnson county; Franklin.
Wynn, Jas. M., Jennings county; Scipio.

REPORTER'S NOTE.

The experience of these reporters has determined the impracticability of making just parliamentary reports of the Proceedings and Debates of the Legislature in connection with the Daily newspaper press. Their experience has also determined that the work itself is practicable, desirable, valuable; and they think too that it is neither a difficult nor a desirable job. They have been working through thirteen volumes without the protection of copyright, and from this it is plain enough that the price they have received for the BREVIER does not invite competition. Their suggestions in the last volume as to the continuance of these Reports have not been entertained by the legislative mind, and need not be repeated. They say now that the BREVIER is a failure without the positive sustaining hand of the State; and because that hand has not been extended to these reporters, they accept it as notice to quit work with the regular session of the body they are serving.

A. & W. H. D.

SKETCHES OF THE

JOURNALS AND DEBATES

OF THE

FORTY-EIGHTH GENERAL ASSEMBLY,

CONVENED IN THE CAPITOL, SPECIAL SESSION, IN THE CITY OF INDIANAPOLIS, 1872.

INDIANA LEGISLATURE.

The Senators holding over, and members elect of the Senate, and the members elect of the House of Representatives of the XLVIIIth General Assembly of the State of Indiana, were convened this day (Wednesday, November 13, 1872, at 2 o'clock P. M.) in their respective halls in the Capitol, in the city of Indianapolis, in pursuance of the following proclamation by the Governor:

STATE OF INDIANA, }
EXECUTIVE DEPARTMENT. }

WHEREAS, The public welfare requires that the General Assembly of the State of Indiana should be convened in special session:—Whereof,

In pursuance of the constitutional provision on that subject, I, Conrad Baker, Governor of the State of Indiana, do, by this proclamation, call a special session of said General Assembly, to be held at the State House in Indianapolis, commencing at two (2) o'clock P. M. of Wednesday, the thirteenth (13th) day of November, A. D. 1872, hereby requiring the members and the members elect thereof to meet at their respective Halls of Legislation in said State House at the time above designated.

In witness whereof, I have hereunto subscribed my name and caused the seal of the State to be affixed, at the [L.S.] city of Indianapolis, this 22d day of October, in the year of our Lord one thousand eight hundred and seventy-two.

CONRAD BAKER.

By the Governor.

JOHN H. FARQUHAR,
Secretary of State.

By O. M. EDDY, Deputy.

IN SENATE.

WEDNESDAY, November 13, 1872.

At 2 o'clock P. M. this day, the hour designated in the proclamation of the Governor for convening an extraordinary session of the General Assembly, Hon. JAMES W. COLE, the Assistant Secretary of the last regular session of the Senate, recently elected a member of the House of Representatives from the county of Tippecanoe, rapping on the President's desk, called Senators to order and said:

Inasmuch as the Principal Secretary of the last Senate is absent, I will appoint Captain Olive to organize the Senate, as he was my assistant two years ago.

Mr. WILLIAMS. The Senator from Fulton [Mr. Smith] has a written statement from Mr. Harrison, the last Secretary of the Senate, in relation to that matter, which I would like to have read to the Senate.

The CHAIRMAN [Mr. D. H. Olive in the chair.] I suppose it would not be out of order to read it.

Mr. SMITH read a letter from Mr. W. R. Harrison, late Secretary of the Senate, stating that circumstances preventing his being present, he desired Senator Smith should act in his stead at the opening of the Senate, and make for him a proper excuse.

It is as follows:

MARTINSVILLE, IND., November 11, 1872.

Hon. Milo R. Smith:

DEAR FRIEND:—Usage probably requires that I should, as late Secretary of the Senate, be present at its organization. Circumstances, family sickness and important business, both combine to prevent my being present.

I desire that you will act for me at the opening, and render for me the proper excuse. The principal thing to do, I suppose, is to call the roll of Senatorial Districts, and aid the President in organizing.

The Librarian, Mr. De Sanno, will deliver to you or my successor the Secretary's calendar, desk or secretary—the one in which we kept the bills and other papers properly filed—also the register of last session, and the bills left over as unfinished business.

My abstract at the close of the last Senate Journal will indicate the state of each bill at the close of business.

You will find the table of Districts Senatorial at the opening of the last session's BREVIER REPORTS. I will be up and render any assistance in my power to aid useful legislation, as soon as disengaged from present engagements and difficulties.

My partner, Mr. Shirley, who will deliver this, is a member of the other House, and will aid you in any way he can. You will find him anxious to do right, and a zealous worker.

Truly yours, etc.,

W. R. HARRISON.

Mr. WILLIAMS. There can be no doubt but that Mr. Harrison would have the right to organize the Senate if he was here; and in the absence of Mr. Harrison, Mr. Cole would have the right; but if there is to be a deputy appointed, the question is who has the right to appoint? Has Mr. Harrison, who was the Principal Secretary, or Mr. Cole, who was the Assistant? To remedy this, if it meet the approbation of the Senate, I will make a motion that the Senator from Wayne [Mr. Beeson] act as Presiding Officer of the Senate until its organization, and that the Senator from Fulton [Mr. Smith] act as Secretary, as by authority from Mr. Harrison, the ex-Secretary. I have not consulted with my friend over the way [Mr. Beeson], but I presume that would be satisfactory all round. Some objection may be raised to Mr. Smith's acting as Secretary because he is a Senator elect, but we had a case in point in 1863. Thomas M. Browne acted as Principal Secretary in 1861, and it was his duty to organize this body in 1863. In 1863 Mr. Browne was a Senator, and notwithstanding he was a Senator, we gave him that right and he exercised it.

Mr. THOMPSON said that the reading by Senator Smith could not be heard in that part of the chamber, in consequence of which the remarks of Senator Williams were not fully appreciated.

Mr. SMITH. What I read was simply an appointment made by Mr. Harrison, former Secretary of the Senate, and an excuse for his not being present on account of sickness in his family.

Mr. TAYLOR. I insist that there is as yet no organization, and that the Chair can not entertain any motion.

The CHAIRMAN [Mr. D. H. Olive.] I was waiting till Mr. Williams should get through with his remarks. As the Senator [Mr. Taylor] says, there is no organization yet, and consequently no motion can be made. Mr. Cole being present by proxy—as he has appointed me to speak for him in this case—I hold that there is nothing in order but the calling of the roll, and that no motion should be entertained until the organization of the Senate.

SEVERAL SENATORS. "Call the roll."

The CHAIRMAN. I will first call the roll of old members—the members holding over.

SENATORS HOLDING OVER

answered as the counties they represented were called, as follows:

From the county of Allen—O. Bird.
From the counties of Warrick and Spencer—Benoni S. Fuller.
From the counties of Knox and Daviess—James D. Williams.
From the counties of Pike, Dubois and Martin—Leroy Cave.
From the counties of Perry, Crawford and Orange—John Stroud.

From the counties of Brown and Jackson—Jason B. Brown.
From the counties of Miami and Wabash—Robert Miller.
From the county of Jefferson—Hiram Francisco.
From the counties of Switzerland and Ripley—M. K. Rosebrough.
From the counties of Ohio and Dearborn—Richard Gregg.
From the county of Franklin—John Beggs.
From the counties of Shelby and Bartholomew—Oliver J. Glessner.
From the counties of Green and Owen—W. E. Dittemore.
From the counties of Park and Vermillion—John Collett.
From the county of Wayne—Othniel Beeson.
From the counties of Howard and Carroll—Ad. Armstrong.
From the counties of Lake and Porter—Richard J. Wadge.
From the counties of St. Joseph and Marshall—Lucius Hubbard.
From the counties of Grant, Blackford and Jay—Asbury Steele.
From the counties of Huntington and Wells—Hugh Daugherty.
From the counties of Pulaski, White, Benton, Jasper and Newton—Robert Dwiggins.
From the county of Tippecanoe—Henry Taylor.

Senators holding over all answered to their names excepting M. T. Carnahan, from the counties of Posey and Gibson.

SENATORS ELECT.

The CHAIRMAN. The next thing in order will be the calling of the roll of Senators elected. As they are called, they will please answer.

Mr. ROSEBROUGH. The question is rather a novel one, but the question is this: The Secretary of the Senate is the proper party to call the Senate to order. That is a matter of precedent. When the Secretary is absent, whether the appointee of the Secretary or the appointee of the Assistant Secretary shall call the Senate to order don't make much difference in public policy or parliamentary usage, except so far as precedent goes. I don't suppose there can be any advantage gained by the present or any further call that might be made. That is, I don't suppose it would advantage either party in the State as a political measure, whether the Secretary should call or whether his appointee should call, or whether the appointee of the Assistant Secretary should call the Senate to order, and call the roll. Now, the question is this: What is right and what is just in the premises?

Mr. DWIGGINS. (Interposing.) I rise to a point of order. I like to hear the gentleman [Mr. Rosebrough] talk very much, for he talks very well; but it seems to me there is nothing before this body. It seems to me that nothing is in order except to call Senators, that we may organize. Therefore, I think the gentleman is entirely out of order.

The CHAIRMAN. I think myself discussion is altogether out of order. But I suppose there is no gentleman in the house who objects to hearing a few remarks. I want to do just what is right, so far as I am concerned.

Mr. DWIGGINS. I think the call should proceed.

The CHAIRMAN. I think there is nothing else in order.

Mr. ROSEBROUGH. Does the Chair sustain the point of order?

The CHAIR. Yes, sir.

Mr. ROSEBROUGH. Then I appeal from the decision of the Chair.

The CHAIRMAN. There is no Senate to appeal to.

Mr. ROSEBROUGH. If there is no appeal, there is no Chair.

Mr. BROWN. (In his seat.) There is one, for the Senator from Ripley [Mr. Rosebrough], if he is disposed to take it.

Mr. ROSEBROUGH. I am not disposed to take it until compelled to by the action of this body.

SEVERAL SENATORS. "Call the roll."

The CHAIRMAN. There is nothing in order but to call the roll.

Mr. ROSEBROUGH. I appeal from the ruling of the Chair.

The CHAIRMAN. There is no Senate to appeal to.

Mr. ROSEBROUGH. The question is, whether the gentleman acting as Chairman can act as Chairman of this body.

SEVERAL SENATORS—"Call the roll."

Mr. ROSEBROUGH—Is this a mob, or a deliberate body?

Mr. BROWN. (In his seat.) I think it is a mixture.

The CHAIRMAN. Senators elect, as their names are called, will please step forward, hand over their credentials, and be sworn in by Judge Downey, who is present.

The Senators elect then presented their credentials, as their districts were called, in the following order:

From the counties of Cass and Fulton—Milo R. Smith.
From the counties of Floyd and Clark—Albert W. Hall.
From the county of Marion—W. C. Thompson, D. H. Oliver.
From the counties of Delaware and Madison—James Orr.
From the counties of Adams and Allen—John D. Sarnighausen.
From the counties of Lawrence and Monroe—George W. Friedley.
From the counties of Scott and Jennings—Jonathan W. Friedley.
From the counties of Fayette and Union—Richard M. Haworth.
From the counties of Rush and Decatur—George D. Sleeth.
From the counties of Putnam and Hendricks—Addison Daggy.

From the counties of Clinton and Boone—Andrew J. Boone.
From the counties of Henry and Hancock—William Hough.
From the county of Randolph—Andrew J. Neff.
From the counties of Hamilton and Tipton—William O'Brien.
From the counties of Fountain and Warren—William P. Rhodes.
From the counties of Laporte and Stark—J. H. Winterbotham.
From the county of Elkhart—James R. Beardsley.
From the counties of Kosciusko and Whitley—Charles W. Chapman.
From the counties of DeKalb and Steuben—W. Irving Howard.
From the county of Vanderburg—H. Clay Gooding.
From the counties of Washington and Harrison—John A. Bowman.
From the counties of Johnson and Morgan—M. R. Slater.
From the county of Montgomery—James F. Harney.
From the counties of Noble and Lagrange—William Bunyan.
From the counties of Clay and Sullivan—Morgan B. Ringo.

Senators elect all answered to their names except Harvey D. Scott, from the county of Vigo.

Having formed a semi-circle in front of the President's chair, the following oath of office was administered to them—two Senators affirming—by the Honorable Alexander C. Downey, one of the Judges of the Supreme Court of Indiana:

You and each of you do solemnly swear, in the presence of Almighty God, that you will support the Constitution of the United States, and the Constitution of the State of Indiana, and that you will faithfully and honestly discharge your duties as Senators in the General Assembly of the State of Indiana; so help you, God.

ELECTION OF PRESIDENT.

Mr. ORR. I now move that the Senate proceed to the election of a President thereof.

It was taken by consent.

Mr. TAYLOR. I nominate for the office of President of the Senate, the Senator from Monroe and Lawrence, the Hon. George W. Friedley.

Mr. FULLER. I put in nomination the Hon. James D. Williams, of Knox county.

There being no further nominations, the vote was taken, and resulted—for Mr. Friedley, 25; for Mr. Williams, 21—as follows:

Those who voted for Mr. Friedley were—Messrs. Brown, Beeson, Beardsley, Bunyan, Collett, Chapman, Dwiggins, Daggy, Freidley, of Scott; Gooding, Hubbard, Haworth, Hough, Howard, Miller, Neff, Oliver, Orr, O'Brien, Rhodes, Steele, Sleeth, Taylor, Thompson and Wadge—25.

Those who voted for Mr. Williams were—Messrs Armstrong, Beggs, Boone, Bowman, Bird, Cave, Dittemore, Daugherty, Fuller, Francisco, Gregg, Glessner, Hall, Harney, Rosebrough, Ringo, Stroud, Smith, Sarnighausen, Slater and Winterbotham—21.

Pending the roll call—

Mr. FREIDLEY, of Lawrence, when his name was called, asked to be excused from voting.

Mr. WILLIAMS, when his name was called, declined to vote.

The CHAIRMAN. Mr. Freidley, having received a majority of all the votes cast, is declared duly elected President, *pro tem.*, of the Senate.

Mr. ORR. I move a committee of two be appointed to conduct the President to the Chair—Mr. Beeson and my friend, Mr. Williams, back here.

The CHAIRMAN. It will be taken by consent.

The committee having performed the service indicated—

The PRESIDENT of the Senate said:

Gentlemen of the Senate:

I am profoundly grateful to you for this mark of your confidence and respect. To be called to preside over the deliberations of this body, composed as it is of gentlemen of so much experience, learning and ability, is a compliment for which I am sincerely thankful. I cannot but regret that your choice had not fallen upon one more worthy, and better qualified to discharge the important duties of this position. However, with your co-operation I shall enter upon and discharge its duties as best I am able, promising you zeal and impartiality in the discharge of its duties.

And in conclusion may I not express the hope that we will, as far as possible, banish party feeling from this chamber, and remember only that we are legislators for a great and growing commonwealth; and that we will earnestly address ourselves to such matters of legislation as will redound to the honor and welfare of the great State of Indiana.

ELECTION OF SECRETARIES.

The PRESIDENT. The next thing in order will be the election of a principal Secretary of the Senate.

Mr. TAYLOR. I place in nomination for principal Secretary of the Senate, D. H. Olive, of Boone County.

Mr. GLESSNER. I nominate Samuel W. Holmes, of Jackson County.

There being no further nominations, the vote was taken, and resulted, for Olive 26; for Holmes, 21—as follows:

Those who voted for Mr. Olive were—Messrs Brown, Beeson, Beardsley, Bunyan, Collett, Chapman, Dwiggins, Daggy, Freidley, of Lawrence; Freidley, of Scott; Gooding, Hubbard, Haworth, Hough, Howard, Miller, Neff, Oliver, Orr, O'Brien, Rhodes, Steele, Sleeth, Taylor, Thompson and Wadge—26.

Those who voted for Mr. Holmes were—Messrs Armstrong, Beggs, Boone, Bowman, Bird, Cave, Daugherty, Fuller, Francisco, Gregg, Glessner, Hall, Harney, Rosebrough, Ringo, Stroud, Smith, Sarnighausen, Slater, Williams and Winterbotham—21.

Mr. PRESIDENT. David H. Olive, having received a majority of all the votes cast, is declared duly elected Secretary of the Senate. The next thing in order will be the election of an Assistant Secretary of the Senate.

Mr. TAYLOR. I nominate for that position P. P. Culver, of the county of Tippecanoe.

Mr. GREGG. I put in nomination Omer F. Roberts, of Dearborn county.

There being no further nominations, the ballot resulted: for Mr. Culver, 26 votes; for Mr. Roberts, 21 votes.

The PRESIDENT. P. P. Culver, having received a majority of all the votes cast, is declared duly elected Assistant Secretary of the Senate. The next thing in order is the election of a Doorkeeper.

Mr. DWIGGINS. I suggest that it would be proper to administer the obligations to the Secretaries, that we may have that much of an organization before we proceed further.

The PRESIDENT. If that be the wish of the Senate, it will be done.

Judge Downey then administered the oath of office, first to Mr. Olive and then to Mr. Culver.

ELECTION OF DOORKEEPER.

The PRESIDENT. The next thing in order will be the election of a Doorkeeper for the Senate.

Mr. TAYLOR nominated Theodore W. Pease, of the county of Marion.

Mr. FULLER. I put in nomination James W. Cookerly, of Monroe county.

There being no further nominations, the ballot resulted—for Mr. Pease, 26 votes; for Mr. Cookerly, 22 votes.

The PRESIDENT. Theodore W. Pease, having received a majority of all the votes cast, is declared duly elected Doorkeeper of the Senate.

NOTIFICATION OF ORGANIZATION.

Mr. ORR. I offer the following resolution:

Resolved, That the Secretary be instructed to inform the House that the Senate has organized by the election of Hon. George W. Friedley, of Lawrence and Monroe counties, President of the Senate; David H. Olive, of Boone county, Principal Secretary; P. P. Culver, of Tippecanoe county, Assistant Secretary; and Theodore W. Pease, of Marion county, Principal Doorkeeper, and that the Senate is ready to proceed to legislative business.

The resolution was adopted.

NOTIFICATION TO THE GOVERNOR.

Mr. WADGE. I move the appointment of two Senators to act with a committee to be appointed by the House, to inform His Excellency, Governor Baker, of the organization of the General Assembly.

The motion was agreed to, and—

The PRESIDENT subsequently appointed Messrs. Wadge and Fuller as such committee on the part of the Senate.

RULES OF THE SENATE.

Mr. DWIGGINS. I offer the following resolution:

Resolved, That the Senate adopt the rules of the special session of 1869 for its government, until such time as permanent rules shall be adopted.

Mr. BROWN. I move to amend the resolution by saying that we adopt the rules of the regular session of the last Senate, with the exception of this amendment of the 8th rule, which is to add after the word "the," in line 2, the words "Presiding Officer of the Senate." It will then read, "thirty-one standing committees, of not exceeding seven members each, shall be appointed by the Presiding Officer of the Senate at the commencement of the session." The reason I do this is that these rules are more familiar to the majority of the present Senate than the rules the Senator over the way [Mr. Dwiggins] has referred to.

Mr. DWIGGINS. The rules of the last Senate were the rules of the special session of 1869, with the amendments offered then by the Committee on Rules, with the exception of the amendment that the committees be thirty-one, instead of twenty-eight. I think they are better without the amendment than with it.

Mr. BROWN. The only change necessary, I think, is to place the power of appointing the committees in the hands of the Presiding Officer instead of the body.

Mr. DWIGGINS. They also provide for the meeting of the Senate at 2 o'clock P. M. each day.

Mr. BROWN. There is no necessity for meeting sooner than 2 o'clock now. The rules I have proposed provide for the meeting at 2 o'clock, just the same as the others.

The amendment was agreed to; and the resolution, as amended, was adopted.

REORGANIZATION OF THE JUDICIARY.

Mr. DWIGGINS. I have still an additional resolution. With the permission of the Senate I will read it myself.

Resolved, By the Senate, the House of Representatives concurring, That a joint committee, consisting of one Senator and two Representatives from each Congressional District of the State, be appointed—those of the Senate by the President thereof, and those of the House by the Speaker thereof—whose duty it will be to prepare a bill for the reorganization of the judicial system of the State, and report the same to both Houses on the sixth day of the next regular session of this General Assembly; and said committee shall have authority to sit during the interim between the present and next session of this General Assembly.

I move that this resolution lie on the table, and be made the special order for 2 o'clock next Wednesday.

Mr. GLESSNER. I submit the following as a substitute for the resolution just offered:

WHEREAS, It is evident that the public good requires some change in the present judicial system; therefore—

Resolved, By the Senate and the House of Representatives, That a joint committee be appointed, to consist of eleven members, four of the Senate and seven of the House, to be selected one from each Congressional District, whose duty it shall be to take into consideration the propriety of reforming the judicial system of the State; and report by bill or otherwise at an early day in this session.

Mr. DWIGGINS. I move that the substitute also lie on the table, and be made the special order for 2 o'clock next Wednesday afternoon, and that there be two hundred copies printed for the use of members.

Mr. BROWN. As far as the printing is concerned, I move to strike that part out. They will be printed in the papers in the morning.

Mr. DWIGGINS. I will accept that amendment.

Mr. ROSEBROUGH. I would suggest that this is probably the most important measure that will come before this Legislature. It has more to do with the permanent welfare of the State than any other, and I am not for treating it in haste. I think it would not be out of the way to have the different resolutions on the subject printed and laid upon the tables of members of the Senate, so that we can act upon them with due and proper consideration. Whether they would be proper measures to be adopted, is a question that will come before the Senate for its consideration and investigation, and for that reason I think if there should be anything printed that comes before this body it should be these resolutions.

The motion to lay the resolutions on the table and make them the special order for Wednesday next, at 2 o'clock P. M., was agreed to.

A MESSAGE FROM THE HOUSE

was received from the hands of Hon. Cyrus T. Nixon, Clerk thereof, announcing the organization of that body, and that it was ready to proceed with legislative business.

REVISION OF THE RULES.

Mr. HUBBARD. I desire to offer the following resolution:

Resolved, That a committee of five be appointed by the Presiding Officer to revise the rules of the Senate, and report as soon as practicable.

The resolution was adopted.

The PRESIDENT subsequently made the committee to consist of Messrs. Hubbard, Brown, Williams, Dwiggins, and Cave.

EMPLOYES.

Mr. RHODES. I offer the following resolution:

Resolved, That the President appoint a committee of five Senators to confer with the officers elect of the Senate, and report the names and number of assistants required for each of said officers.

The resolution was adopted.

The President subsequently appointed, as said committee, Messrs. Rhodes, Taylor, Glessner, Orr and Gregg.

And then the Senate adjourned till two o'clock to-morrow afternoon.

THE

BREVIER LEGISLATIVE REPORTS.

THIRTEENTH VOLUME.

INDIANA LEGISLATURE.

HOUSE OF REPRESENTATIVES.

WEDNESDAY, November 13, 1872.

This being the day and hour for convening the Forty-eighth General Assembly of the State of Indiana in extra session by proclamation of the Governor, dated Oct. 22, 1872, the members elect of the House of Representatives, being assembled in their hall in the Capitol, were called to order by Samuel W. Holmes, of Jackson county, Clerk of the House of Representatives of the last General Assembly. Mr. Holmes said: "It is my duty, as the Clerk of the last House of Reprentatives, to call this body to order and organize it. You have been called together in special session by the proclamation of the Governor, which reads as follows: [Mr. Holmes here read the proclamation concerning the Legislature in special session.] The members elect, as their names are called, will step forward, hand their credentials to the clerk, arrange themselves in front of the desk and remain standing until the oath of office is administered."

THE ORGANIZATION.

Under the CLERK'S order for the organization of the House of Representatives, the members elect were called by counties and representative districts, and they came forward, presented their credentials to the clerk and stood in the area in front of the clerk's desk in convenient numbers, as many as so arrange themselves conveniently at one time, whilst they were qualified by the official oath or affirmation of a member at the hand of Judge Buskirk, of the Supreme Court, in the following words:

You who swear, do swear in the presence of Almighty God, and you who affirm, do solemnly affirm, that you will, each of you, support the Constitution of the United States and of the State of Indiana, that you will honestly and faithfully discharge your duties as Representatives in the General Assembly, so long as you remain in office—you who swear as you shall answer to God, and you who affirm, under the pains and penalties of perjury.

All the members elect (excepting Mr. Dial, of the county of Warrick,) responded to the call of the clerk, by counties and districts, as follows:

For the county of Posey—James M. Whitworth.
For the county of Vanderburg—James D. Riggs, George W. Wolflin.
For the county of Warrick—Stephen D Dial.
For the county of Gibson—C. A. Buskirk.
For the county of Pike—John Barker.
For the county of Knox—Henry S. Cauthorn.
For the county of Daviess—Mathew L. Brett.
For the counties of Martin and Dubois—Henry A. Peed.
For the county of Spencer—William Thompson.
For the county of Perry—Gabriel Schmuck.
For the counties of Crawford and Orange—William M. Ellsworth.
For the county of Washington—James Rudder.
For the county of Harrison—William H. Pfrimmer.
For the county of Floyd—James H. Willard.
For the county of Clark—Joseph Baker.
For the county of Jefferson—David C. Branham.
For the counties of Jefferson, Clark and Scott—Daniel Blocher.
For the counties of Jefferson and Ripley—William D. Wilson.
For the counties of Switzerland and Ohio—Benj. North.
For the county of Dearborn—Noah S. Givan.
For the county of Franklin—Israel Goble.
For the county of Rush—Benj. F. Tingley.
For the county of Decatur—George Goudie.
For the counties of Rush and Decatur—Jonn D. Miller.

For the county of Jennings—James M. Wynn.
For the counties of Bartholomew and Shelby—Stinson J. Barrett.
For the county of Bartholomew—John W. Cline.
For the counties of Brown and Jackson—James A. McKinney.
For the county of Monroe—Andrew W. Reeves.
For the county of Lawrence—Wm. H. Edwards.
For the county of Greene—John R. Isenhower.
For the county of Sullivan—Stewart S. Coffman.
For the county of Clay—William H. Gifford.
For the county of Owen—Jesse H. Reno.
For the county of Putnam—Weller B. Smith.
For the county of Hendricks—Allen Furnas.
For the counties of Putnam and Hendricks—Jesse Ogden.
For the county of Morgan—Harvey Satterwhite.
For the county of Johnson—Thomas W. Woollen.
For the counties of Morgan and Johnson—W. C. Shirley.
For the county of Marion—Nathan Kimball, J. J. W. Billingsly, E. T. Johnson, Edward King.
For the county of Hancock—Charles G. Offutt.
For the county of Shelby—Samuel D. Spellman.
For the county of Henry—John T. Hedrick.
For the counties of Fayette and Union—Warner H. Broadus.
For the county of Wayne—Lewis C. Walker, Wm. Baxter.
For the county of Randolph—Nathan T. Butts.
For the county of Delaware—A. C. Mellett.
For the county of Madison—Thomas N. Jones.
For the counties of Madison and Henry—John O. Hardesty.
For the county of Hamilton—Nathan W. Clark.
For the counties of Hamilton and Tipton—John E. Rumsey.
For the county of Clinton—William Strange.
For the county of Carroll—John L. Richardson.
For the county of Boone—Christian S. Wesner.
For the counties of Boone and Clinton—Marquis L. Martin.
For the county of Montgomery—Jesse Y. Durham.
For the county of Parke—John E. Woodard.
For the county of Vermillion—John Gronendyke.
For the county of Fountain—Horatio R. Claypool.
For the county of Warren—Richard Odle.
For the county of Tippecanoe—Elihu Hollinsworth, James Cole.
For the counties of Benton and White—Robert Gregory.
For the county of Cass—Charles W. Anderson.
For the county of Howard—Thomas M. Kirkpatrick.
For the county of Miami—John W. Eward.
For the county of Wabash—Cady E. Cowgill.
For the counties of Miami aan Wabash—Cyrus V. N. Lent.
For the county of Grant—Edward S. Lenfesty.
For the counties of Blackford and Jay—Abraham Wilson.
For the counties of Wells and Adams—John McConnell.
For the county of Huntington—Buell M. Cobb.
For the county of Allen—Jeff C. Bowser, Mahlon Heller.
For the county of Whitley—Cyrus B. Tulley.
For the county of Kosciusko—John B. Thayer.
For the county of Noble—Henry C. Stanley.
For the counties of Kosciusko and Fulton—Peter S. Troutman.
For the county of DeKalb—Samuel Shutt.
For the county of Steuben—Eugenus B. Glasgow.
For the county of LaGrange—Wm. Prentiss.
For the county of Elkhart—John E. Thompson.
For the counties of Elkhart and Noble—D. S. Scott.
For the county of Marshall—Reeson B. Eaton.
For the county of St. Joseph—Wm. W. Butterworth.
For the counties of St. Joseph and Marshall—Joseph Henderson.
For the county of Laporte—George H. Teter.
For the counties of Laporte and Starke—L. D. Glazebrook.
For the counties of Pulaski, Jasper and Newton—Jethro A. Hatch.
For the county of Porter—J. Crumpacker.
For the county of Lake—Martin Wood.
For the county of Ripley—Adam G. Hoyer.
For the county of Vigo—William K. Edwards, Patrick H. Lee.

NOTE.—Mr. Hardesty, of Madison and Henry; Mr. Jones, of Madison, and Mr. Mellett, of Delaware, did not receive their oath of office till after the election of the Speaker.

THE SPEAKER.

Mr. BUTTERWORTH desired to move that the House now proceed to the election of the Speaker.

Mr. FURNAS demanded a call of the House.

Mr. LENFESTY seconded the demand.

The call proceeded, and the CLERK reported 96 members present.

On motion of Mr. CAUTHORN further proceedings under this call were dispensed with.

The CLERK now announced the order of nominations for the Speaker.

Mr. KIMBALL placed in nomination the name of the Hon. Wm. K. Edwards, of Vigo county.

Mr. RICHARRDSON nominated the Hon. Henry S. Cauthorn, a Representative for the county of Knox.

No other nominations being submitted the vote proceeded, and the Clerk reported the result—for Mr. Edwards 53 votes, for Mr. Cauthron 43 votes—as follows:

For W. K. Edwards—Messrs. Baxter, Billingsly, Branham, Butts, Butterworth, Broadus, Cauthorn, Clark, Cobb, Cole, Crumpacker, Durham, Eaton, Edwards, of Lawrence, Eward, Furnas, Gifford, Glasgow, Goudie, Gowgill, Gronendyke, Hatch, Hedrick, Hollinsworth, Hoyer, Johnson, Kimball, King, Kirkpatrick, Lenfesty, Lee, Lent, Miller, North, Odle, Ogden, Prentiss, Reeves, Riggs, Rumsey, Satterwhite, Scott, Tingley, Thompson, of Spencer; Thompson, of Elkhart; Thayer, Troutman, Walker, Wilson, of Ripley; Wilson, of Jay; Wesner, Wolflin, Wood, Woodard and Wynn—53.

For H. S. Cauthorn—Messrs. Anderson, Baker, Barrett, Barker, Bowser, Blocher, Brett, Buskirk, Claypool, Cline, Coffman, Edwards, of Vigo; Ellsworth, Given, Glazebrook, Goble, Gregory, Heller, Henderson, Isenhower, Martin, McKinney, McConnell, Offutt, Peed, Pfrimmer, Rudder, Reno, Richardson, Schmuck, Shirley, Smith, Spellman, Stanley, Shutt, Strange, Teter, Tulley, Willard, Woollen and Whitworth—43.

The CLERK said: Whole number of the votes cast, 96. Necessary to a choice, 49. Mr. Edwards received 53 votes, Mr. Cauthorn received 43 votes. Mr. Edwards having received the majority of all the votes cast is duly elected Speaker of the House of Representatives. Mr. Kimball, of Marion, and Mr. Cauthorn, of Knox, will please conduct the Speaker to the chair.

That service having been performed, the SPEAKER stood before the House and said:

Gentlemen of the House of Representatives: I thank you for the honor of this

election. In assuming the responsibility of this position I am fully mindful of the differences of opinion, and the seeming conflict of interests that exist. Conscientious differences of opinion are the natural outgrowth, the necessary result of free institutions. Their discussion is a measurement of reason, and are to be reconciled on this floor by courtesy in intercourse, decorum in debate and the observance of order. I ask of each of you, and shall rely upon, your cordial co-operation to enable me to discharge every duty intelligently, faithfully and impartially.

The important subjects of legislation will be submitted to you by the Governor in his message. Your familiarity with these, and with the views of your constituency, will enable you to act with proper understanding.

Agriculturture, manufactures, mining and every other material interest is prosperous, and if further legislation is needed to advance that prosperity, it will be for you to enact that which may be adequate.

The system of education maintained by the State, whereby popular intelligence and public virtue, the fundamental principles, the elements of strength and security are promoted on the idea that every child in the State is a child of the State, is a primary, not a secondary interest that commends itself to patriotic pride, to support which the people of the State are more willing to be taxed than for any other purpose, that Indiana may not be behind any of her sister States.

The system of benevolence so freely and cheerfully maintained, whereby the blind are educated, a significant language is given to the dumb, and those who are so unfortunate as to be bereft of reason are tenderly cared for, because they can not care for themselves, and a home for the disabled soldier is provided—commands the benevolent admiration of humanity.

Whatever may be the result of your deliberations, I trust it will be to your honor, to the credit of the State and to the will and interest of those we represent.

PRINCIPAL CLERK.

On the motion of Mr. WOODARD, it was ordered that the House proceed to the election of Principal Clerk of the House of Representatives.

The SPEAKER announced the order of nominations.

Mr. KIMBALL nominated Cyrus T. Nixon, of the county of Clark.

Mr. RICHARDSON nominated Dura E. Johnson, of Wayne county.

There being no other nominations proposed the vote proceeded, and the result was reported by the Speaker as follows:

Mr. Nixon received 57 votes.

Mr. Johnson received 43 votes.

The SPEAKER announced that Cyrus T. Nixon, having received a majority of all the votes cast, he is duly elected Principal Clerk of the House of Representatives.

THE ASSISTANT CLERK.

Mr. FURNAS moved the order for the election of First Assistant Clerk of the House of Representatives.

The motion was agreed to.

The SPEAKER announced the order for nominations.

Mr. KIMBALL nominated Moses G. McLain, of Marion.

Mr. RICHARDSON nominated George W. Tebbs, of Dearborn.

The vote proceeded, and the Speaker reported the result:

Mr. McLain received 55 votes.

Mr. Tebbs received 44 votes.

The SPEAKER then announced that Mr. McLain, having received the requisite majority, was duly elected.

THE DOORKEEPER.

On the motion of Mr. LENFESTY it was ordered that the House proceed now to the election of Doorkeeper.

The SPEAKER announced the order of nominations.

Mr. KIMBALL nominated Wm. T. Lockhart, of Hendricks county.

Mr. RICHARDSON nominated Frank N. Schell, of the county of Clark.

The vote having having been taken—

The SPEAKER announced the result: The whole number of votes cast, 98. Necessary to a choice, 49. Mr. Lockhart received 54 votes. Mr Schell received 44 votes. Mr. Lockhart, having received the majority, is duly elected Doorkeeper of the House of Representatives.

Whereupon the several officers came forward and received the oath of office.

Mr. CAUTHORN submitted a resolution, which was adopted, for the formal order that the Clerk inform the Senate that the House of Representatives is now organized by the election of officers and ready to proceed with the business of the session.

APPOINTEES OF THE HOUSE.

Mr. WALKER submitted the following:

RESOLVED, That the Speaker of the House appoint a committee of five members to whom the Clerk and Doorkeeper shall report the names and duties required of all the assistants by them appointed; and it shall be the duty of said committee to authorize the appointment of such assistants only as are needed; to report the same to the House for its action; and no

person shall draw pay for his services as such assistant unless his employment be authorized by such committee and approved by the House. No additional appointments shall be made without consent of the House.

The resolution was adopted.

RULES.

Mr. FURNAS submitted the following:

RESOLVED, That the rules of the last House of Representatives be adopted for the government of this House till otherwise ordered.

The resolution was adopted.

Mr. CAUTHORN called for the reading again of the report of the vote of the election of Clerk. He understood that report was read 57 to 43, one vote too much—the Representative from Warrick (Mr. Dial) not being present.

The reading of the record justified the remark.

The SPEAKER. The Clerk will make the correction of the record.

A message was received from the Senate, by their Secretary, announcing the organization of that body and its readiness to proceed to legislative business.

RULES.

Mr. BUTTERWORTH submitted the following:

RESOLVED, That the State Librarian furnish the members of the House of Representatives with the rules of the last session if they are in print.

Mr. FURNAS. I understand that there are no copies of those rules in print.

The SPEAKER. I believe I have the only copy that remains. There may be one more.

The resolution was rejected.

Mr. OFFUTT submitted the following:

RESOLVED, That the rules adopted for the government of the last House of Representatives be the rules of this House until others shall be legally adopted; and that a special committee of five be appointed by the Speaker for the purpose of reporting rules of this House; and that said committee be instructed to report on Monday next.

The resolution was adopted.

INFORMATION FOR THE GOVERNOR.

Mr. SATTERWHITE submitted the following:

RESOLVED, That a committee of three members of the House of Representatives be appointed by the Speaker to act with a like committee on the part of the Senate, and to inform the Governor that this special session of the General Assembly is organized and ready to receive from him any communication which he may be pleased to make.

The resolution was adopted.

STAMPS, STATIONERY AND NEWSPAPERS.

Mr. WALKER submitted a resolution for a special committee of one from each Congressional district to report the amount to be paid to each member of the House for stamps and stationery, and the number of newspapers that shall be allowed to each member, and that all resolutions on these subjects be referred to said committee without debate.

The resolution was adopted.

The SPEAKER announced the special committee under the resolution of Mr. Satterwhite; viz: Messrs. Satterwhite, Cauthorn and Lee.

The SPEAKER also announced the special committee under Mr. Offutt's resolution, viz: Messrs. Offutt, Kimball, Henderson, Anderson and Furnas.

Mr. CAUTHORN submitted a resolution for an order (which was adopted) to establish the daily meeting of the House of Representatives at nine o'clock a. m. until otherwise ordered.

WABASH AND ERIE CANAL.

Mr. SHIRLEY submitted a joint resolution [H. R. 1] proposing an amendment to the constitution by adding to the tenth article a section in relation to the debt charged upon the Wabash and Erie Canal:

Be it resolved by the General Assembly of the State of Indiana, That the following amendment be and hereby is proposed to the constitution of this State, and that the same be and is hereby agreed to and submitted to the electors of the State for their ratification or rejection: *Provided*, The same shall be agreed to by a majority of all the members elected to each house of the General Assembly of this State, to be chosen at the next general election. Said amendments to consist of the addition of the following section to the tenth article of the constitution in the language following:

No law or resolution shall ever be passed by the General Assembly of the State of Indiana that shall recognize any liability of this State to pay or redeem any certificate of Stock issued in pursuance of an act entitled "An Act to provide for the funded debt of the State of Indiana, and for the completion of the Wabash and Erie Canal to Evansville," passed January 19, 1846, and an act passed January 29, 1847, which, by the provisions of the said acts, or either of them, shall be payable exclusively from the proceeds of the canal lands, and the tolls and revenues of the canal in said act mentioned, and no such certificate of stock shall ever be paid by this State.

RESOLVED, further, that the foregoing joint resolution be and the same is hereby referred to the General Assembly of this State to be chosen at the general election to be held on the second Tuesday in October, in the year of our Lord one thousand eight hundred and seventy-two.

WHEREAS, The foregoing joint resolution was passed by the General Assembly of the State of Indiana at its last preceding session, begun in January, 1871, be it therefore resolved by the General Assembly of Indiana, at its present session, that said proposed amendment to the Constitution of the State of Indiana be, and the same is hereby agreed to, and that said proposed amendment to the Constitution of the State of Indiana be submitted to the electors of the State of Indiana for their ratification or rejection at the next general election to be held on the second Tuesday in October, in the year of our Lord one thousand eight hundred and seventy-four.

The joint resolution was read the first

time, and ordered to be engrossed and entered upon the journal of the House of Representatives.

The SPEAKER. The question now recurs on the passage of the joint resolution.

The roll call for the vote was ordered and proceeded.

Mr. FURNAS. Does that include the unsurrendered bonds?

Mr. SHIRLEY. It applies to the bonds set forth in the acts referred to.

Several voices demanded the reading of the resolution, and it was again read by the Clerk.

Mr. HARDESTY. I move its reference to a special committee of three. It is a subject that requires very careful attention.

Mr. GIFFORD thought it would be more proper to refer the resolution to the appropriate standing committee.

Mr. WOOLLEN submitted the point of order, that it is too late now to make amendments to the proposition, which the reference might presuppose, as the call of the roll had already been commenced.

The SPEAKER overruled the point. The reading of the proposition reopens the question.

Mr. WALKER moved that the joint resolution be laid on the table.

Messrs. RICHARDSON and CLINE demanded the yeas and nays on this motion.

The yeas and nays were ordered, and being taken, the result was—yeas 45, nays 54—as follows:

Yeas—Messrs. Baxter, Billingsly, Butts, Butterworth, Broadus, Clark, Cobb, Cole, Crumpacker, Eward, Furnas, Gifford, Glasgow, Glazebrook, Goudie, Gowgill, Gronendyke, Hatch, Hedrick, Hollinsworth, Johnson, King, Kirkpatrick, Lenfesty, Lee, Lent, Mellett, Miller, McConnell, North, Odle, Ogden, Rudder, Reeves, Riggs, Rumsey, Satterwhite, Scott, Tingley, Thompson of Spencer, Troutman, Walker, Wilson of Jay, Wesner, Woodard, Whitworth and Wynn—45.

Nays—Messrs. Anderson, Baker, Barrett, Barker, Bowser, Blocher, Branham, Brett, Buskirk, Cauthorn, Claypool, Cline, Coffman, Durham, Eaton, Edwards of Lawrence, Ellsworth, Given, Goble, Gregory, Hardesty, Heller, Henderson, Hoyer, Isenhower, Jones, Kimball, Martin, McKinney, Offutt, Peed, Prentiss, Pfrimmer, Reno, Richardson, Schmuck, Shirley, Smith, Spellman, Stanley, Shutt, Strange, Teter, Thompson of Elkhart, Thayer, Tulley, Wilson of Ripley, Willard, Wolflin, Woollen and Wood—54.

Messrs. Furnas, Gifford, Glazebrook, Hollinsworth, Johnson and others explaining their affirmative votes—generally because, whilst they were in favor of the proposition, they desired simply to gain time for a just examination of it.

So the motion to lay on the table was rejected.

The SPEAKER. The question recurs on the motion [Mr. Hardesty's] to refer the joint resolution to a select committee.

Mr. GIVEN. I move to amend the motion so that the joint resolution shall be referred to a special committee of one from each Congressional district.

The amendment was agreed to, and the motion of Mr. Hardesty as amended was adopted.

A message was received from the Senate announcing the appointment by that body of Messrs. Dodge and Fuller as a committee to act with a like committee of the House in waiting upon the Governor.

THE ORGANIZING OFFICERS.

Mr. KIMBALL submitted a resolution for an order that Samuel W. Holmes be allowed five days' pay and mileage for his services in the organization of this House.

Mr. HARDESTY proposed to amend the order so that it shall include the Principal Clerk, the Assistant Clerk and the Doorkeeper of the last House.

Mr. Kimball accepted the amendment, and so the order was adopted.

On motion of Mr. BRANHAM the House adjourned.

THE

BREVIER LEGISLATIVE REPORTS.

THIRTEENTH VOLUME.

INDIANA LEGISLATURE.

IN SENATE.

THURSDAY, November 14, 1872.

The PRESIDENT [Hon. George W. Friedley] called the Senate to order at two o'clock p. m.

A MESSAGE FROM THE HOUSE,

inviting the Senate to the Hall of the House of Representatives to hear the Governor's message, was received.

On motion of Mr. ORR the message from the House was taken up.

On his further motion the invitation contained therein was accepted.

THE WABASH AND ERIE CANAL.

Mr. BROWN asked and obtained leave to introduce the following:

Resolved by the General Assembly of the State of Indiana, That the following amendment be proposed to the Constitution of Indiana:

No law or resolution shall be passed by the General Assembly of the State of Indiana that shall recognize any liability of the State to pay or redeem any certificate of stock issued in pursuance of an act entitled "An Act to provide for the funded debt of the State of Indiana and for the completion of the Wabash and Erie Canal to Evansville," passed January 19, 1846, and an act supplemental to said act, passed January 29, 1847, which, by the provisions of said act, or either of them, shall be payable exclusively from the proceeds of the canal lands and the tolls and revenues of the canal in said acts mentioned, and no such certificates or stocks shall ever be paid by the State.

Mr. BROWN. This is the same resolution which was passed by both branches of the General Assembly last session. Under a provision of the Constitution of the State it must be passed by some subsequent General Assembly of the State and then ratified by the people of the State at the ballot box. In my judgment, the resolution can be passed as well by a special session as a general or regular session of this existing General Assembly, but inasmuch as there is some doubt upon the subject, I move that the resolution be referred to the Committee on the Judiciary to examine and report upon.

There being no objection it was so ordered.

THE GOVERNOR'S MESSAGE.

Mr. WADGE. In view of the fact that the Governor has indicated two o'clock as the hour in which he will be prepared to deliver his message, I move that the reading of the minutes be dispensed with and that the Senate repair at once to the Hall of the House.

Mr. BROWN. I think we had better read the minutes, because they are very important They refer to the organization of the body, and we should see that there is no mistake in them. They, however, might be passed over to be read tomorrow.

Mr. WADGE. They might be read after we come back from the Hall of the House.

The PRESIDENT. It is moved and seconded that we proceed to the Hall of the House of Representatives to hear such communication as the Governor may see proper to make.

The motion was agreed to, and——

Accordingly Senators left their chamber for the purpose indicated in the motion.

When they had returned——

The PRESIDENT directed the reading of the Secretary's journal of yesterday's proceedings.

Mr. FRIEDLEY, of Scott, asked and obtained leave of absence till Monday on account of sickness in his family.

The journal of yesterday was then read, corrected and approved.

THE DRAINAGE LAWS.

Mr. DWIGGINS introduced a bill [S. 1] for an act to repeal an act entitled "An Act to authorize the construction of levees, dykes and drains, and the reclamation of wet and overflowed lands by incorporated companies and repeal all former laws regulating the same subject," which act took effect without executive approval on the 29th day of May, 1869; also an act to repeal an act entitled "An Act supplementary to an act entitled 'An Act to authorize and encourage the construction of levees, dykes and drains, and the reclamation of wet and overflowed lands by incorporated companies and to repeal all former laws relating to the same subject,' which act took effect May 22, 1869, and prescribing penalties for violation of the provisions thereof," which last named act was approved on the 23d day of February, 1871.

Mr. DWIGGINS moved that the rules be suspended so that the bill may be read the second time now and referred to the Senators interested, viz: Messrs. Wadge, Hubbard, Winterbotham and himself.

Mr. BROWN. I think we had better not be in a hurry in shoving this bill through. I was in favor of the drainage companies last session, but I am inclined to think I was wrong about it.

Mr. DWIGGINS. The reason I ask for a suspension of the constitutional provision is, that the Senate may adjourn over this afternoon or to-morrow afternoon until Monday, and the Senators referred to will probably remain in the city, when they can consider it, after which the bill can be reported to the Senate and be discussed here.

Mr. HUBBARD. As this matter has been very thoroughly discussed, not only in the Senate last session, but since that time by the public press, of course every member of the Senate understands the interests of the northern members in the passage of a repealing act. I do not exaggerate, I think, when I state that in the different counties affected by the work of the Kankakee Draining Company there rre somewhere between 500 and 1,000 different cases pending in the courts. I think, in most instances, these cases will be called for trial during the coming winter. This bill, of course, can have no influence upon any pending litigation, but as the matter is one that excites great interest in the northern section of the State, we feel justified in using every reasonable means to bring this bill to a successful passage, and for this reason I must sustain my friend, the Senator from Jasper [Mr. Dwiggins], in asking that this matter be pushed on now that it may be brought to a successful termination at as early a period in the session as possible.

Mr. BROWN. While I am in favor of the repeal of the law referred to, I am opposed to making a precedent such as is proposed. It seems to me better to have this bill pass along in the way and manner which the constitution has provided. Mr. B. said the course proposed by the Senator from Jasper [Mr. Dwiggins] was unheard of in parliamentary proceedings. He [Mr. B.] was disposed to vote for the bill, but when a Senator came in the second day of the session and introduced a bill to repeal two laws on the statute books under which rights had been acquired, and without permitting it to take the course of fair legislation, sought to place it in the hands of Senators who were at war with the company, he must object. He thought no harm could result by having the bill pass along in the ordinary course of legislation.

Mr. WADGE directed attention to a precedent established in the Senate on the second day of the last session of the General Assembly and reported on page 28 of the BREVIER LEGISLATIVE REPORTS, volume XII, which he read. The bill then introduced was read the second time by consent of the Senate—two-thirds voting in the affirmative—as the Senator from Jasper [Mr. Dwiggins] asks the consent of the Senate to do now. As the Senator from St. Joseph [Mr. Hubbard] has intimated, perhaps not ten Senators on this floor understand the operation of this drainage law. The matter has been discussed on the floor of the Senate and all over the State, but I presume there are few Senators who fully understand it. I do hope the motion of the Senator from Jasper will prevail.

Mr. BROWN. Fair and just legislation means that when a bill goes into the hands of a committee it should be an impartial committee—a committee whose judgments are not biased or prejudiced either for or against it.

Mr. DWIGGINS. Of course I expect the Senator [Mr. Brown] to vote for this bill, and I will withdraw that part of my motion requesting the bill to be sent to

the Senators named, and move only that the Senate suspend the rules so that the bill may be read the second time now by title.

The motion was agreed to by yeas 45, nays 2, and the bill was read the second time by title only.

It goes upon the files and will be referred to the appropriate committee after the standing committees shall be appointed.

BANKS OF DISCOUNT.

Mr. DAUGHERTY, by leave, introduced a bill [S. 2] to authorize and regulate the incorporation of Banks of Discount and Deposit in the State of Indiana, which was read the first time and passed to the second reading.

[The bill provides that any number of persons, not less than five, may form themselves into a corporation as a bank of discount and deposit. It contains, among other provisions, the following: The amount of capital stock shall not be less than $25,000, to be divided into shares of $100 each; the association shall transact no business other than that necessary for its preliminary organization until at least fifty per cent. of the whole capital stock has been actually paid in, and the certificate of the fact filed in the office of the Secretary of State; no such association shall issue bills of indebtedness in the form and similitude of bank notes intended to circulate as currency; each director must have at least five shares of stock; at least fifty per cent. of the capital stock must be paid in before commencing business, and the residue shall be paid in within six months thereafter; the capital stock shall be held as personal property; it may be increased by a vote of the shareholders owning two-thirds of its capital, but such increase shall be paid in at the time it is subscribed; ten per cent. of the net profits of the business of the association shall be retained as a surplus fund until it amounts to twenty-five per cent. of the capital stock; dividends may be declared semi-annually, but no portion of the capital stock shall be withdrawn, and if losses have been sustained exceeding its undivided profits, no dividends shall be made while it shall continue its banking operations greater than its net profits then on hand, deducting its losses and bad debts. The association may be closed by the vote of the shareholders owning two-thirds of the stock. After such vote no dividends shall be made to stockholders nor any capital withdrawn or paid to the stockholders until all the debts and liabilities of the association are fully paid. The stockholders shall be individually responsible for the contracts and engagements of the association. The act to take effect from and after its passage.]

BLUE ISLAND (ILL.) DAM.

Mr. WADGE, by consent, offered the following resolution:

WHEREAS, Some years ago the Canal Commissioners of the State of Illinois erected a dam at Blue Island, in that State, whereby the waters of the Calumet River were dammed up so at to overflow large quantities of valuable lands in the counties of Lake and Porter, in this State;

And WHEREAS, His Excellency, Governor Baker, by making the proper representations to the authorities of the State of Illinois, succeeded in securing the passage of a joint resolution by the Legislature of that State, at its last session, directing the Canal Commissioners to remove said dam;

And WHEREAS, Said Canal Commissioners have not complied with the orders of the Legislature contained in said joint resolution, and that the citizens of Lake and Porter Counties are suffering great injury in consequence of said nuisance, therefore be it

RESOLVED, That His Excellency, Governor Baker, be hereby requested to furnish the Senate such information as may be in his possession bearing on the subject, and also give to this body such suggestions as he may deem advisable looking to the relief of the citizens in that portion of the State in the abatement of said nuisance.

The resolution was adopted.

WABASH AND ERIE CANAL.

Mr. GREGG asked and obtained leave to offer the following resolution:

RESOLVED, That the Secretary of State be requested to furnish the Senate a certified copy of Joint Resolution No. 1, passed at the Forty-seventh Regular Session of the General Assembly and entitled "A joint resolution proposing an amendment to the constitution by adding to the tenth article a section in relation to the debt charged upon the Wabash and Erie Canal," for the further action of this General Assembly.

It was adopted by consent.

HON. JOHN W. BURSON.

Mr. ORR, by leave, offered the following:

RESOLVED, That this Senate has heard with deep regret the death of Hon. John W. Burson, a member of this Senate from the counties of Delaware and Madison; that in his death the State has lost an able and incorruptible patriot.

RESOLVED, That as a testimony of respect to the memory of the distinguished Senator this chamber be appropriately draped in mourning for the space of thirty days.

RESOLVED, That a copy of these resolutions be transmitted to the family of the deceased by the Secretary of this Senate.

RESOLVED, That this Senate, as a further mark of respect to the memory of the deceased, when the Senate adjourn it stands adjourned until Monday at two o'clock p. m.

Mr. ORR. I have had the pleasure of an acquaintance with John W. Burson for something like ten or fifteen years, and I have always found him to be a gentleman of the first order, honest and honorable in

all his dealings. He had a big, kind, generous heart, and no charitable or benevolent institution ever applied to him in vain. He was liberal. No religious society, of whatever denomination it might be, asked him for aid and was refused. He also, sir, loved his country. When our country was involved in that terrible struggle, which has passed, he was always found, in the language of the resolution, an incorruptible patriot. He loved the soldier and was always ready to help him, and he loved the soldier's friend; but, Mr. President, he has gone to his eternal rest, I hope, in heaven.

Mr. DITTEMORE. In moving to adopt these resolutions, I do not like to let the opportunity pass without at least saying a word. My acquaintance with Mr. Burson was of a limited character, but in the short time of our acquaintance I found him to be one of that class of men that belongs to the noblest work of God—a man whose character I consider irreproachable—a man whose generosity was unbounded. His devotion to his country, judging from the history I have of him from his neighbors, was of a character that stamped him as a man of the highest order. As far as I have been informed, his associations with his fellow men were of the first standing, as a kind husband, an indulgent parent, and one of the best citizens of the commonwealth.

The PRESIDENT. Those in favor of the adoption of the resolutions will please say "Aye."

After the affirmative response—

Mr. WILLIAMS said: I understand that these resolutions purport to say that John W. Burson was a Senator in this body. Now, sir, I have some respect for the memory of John W. Burson, but I am not willing to say that John W. Burson was a member of this Senate. The records of the Senate do not show it. If the Senate desire to pass resolutions in memory of John W. Burson as a citizen and a gentleman, I am willing it should pass them, but I am not willing to say that I contradict what was done in the Senate two years ago, and admit now that John W. Burson was a member of this body. Therefore, I offer the following amendment: Strike out the words that refer to him as a member of this body. If that is done I am willing to vote for the resolutions.

The PRESIDENT. I believe the amendment is out of order, as the affirmative vote had been taken at the time the Senator from Knox [Mr. Williams] arose.

Mr. WILLIAMS. Will the chair say that a Senator has not the right to rise and interpose a motion before a vote is announced by the presiding officer?

The PRESIDENT. The chair understands that it is too late after an affirmative vote has been taken, to offer an amendment to the proposition being voted on.

Mr. GLESSNER. I understand the rule to be that at any time before the decision of the chair is announced a motion to amend can be made. The Senator [Mr. Williams] moves to amend, and I understand under the rule his motion is in time.

The PRESIDENT. As many as are of a contrary opinion will say "No." [After the negative response]—The resolutions are adopted.

STATUTES, LAWS, JOURNALS AND BREVIER REPORTS.

Mr. HAWORTH submitted the following:

RESOLVED, That the Doorkeeper be requested to obtain of the State Librarian and lay upon the tables of Senators one copy of the Revised Statutes, one copy of the laws passed by the last General Assembly, one copy each of the Senate and House journals, and one copy of the BREVIER REPORTS.

Mr. BROWN moved to amend by striking out the words "State Librarian," and inserting in lieu thereof the words "Secretary of State."

The amendment was taken by consent.

Mr. NEFF. I offer the following resolution as a substitute for the one just read:

RESOLVED, That the State Librarian furnish each Senator with a copy of Gavin & Hord's Statutes, the Journals, Session Acts and BREVIER LEGISLATIVE REPORTS of the last session, and that members so receiving shall receipt for the same, and at the close of the session shall return such copies of the Statutes, Journals, Session Acts and BREVIER REPORTS and take up his receipt for the same, and in default thereof shall have deducted from his pay in settlement with the State Treasury the value of such books so receipted for at the list prices.

On motion of Mr. DITTEMORE the substitute was laid on the table.

Mr. WILLIAMS moved to insert in lieu of the word "revised" before the word "statutes," the words "Gavin & Hord."

Mr. HAWORTH accepted the amendment.

The resolution, as amended, was adopted, *nem con.*

PRAYERS.

Mr. ORR submitted the following:

RESOLVED, That the resident clergy of the city of Indianapolis be and are hereby respectfully invited to be present alternately in the Senate Chamber at the beginning of each day's session, and open the deliberations of this body with prayer, and that the Secretary inform the city clergy of the passage of this resolution.

It was adopted.

THE GOVERNOR'S MESSAGE.

Mr. BEESON. I offer the following resolution:

RESOLVED, That the Secretary of the Senate be authorized to have a thousand copies of the Governor's message printed for the use of Senators.

It was adopted by consent.

VOLUNTARY ASSOCIATIONS.

Mr. STEELE asked and obtained leave to introduce a bill [S. 3] for an act to amend section four of an act entitled "An Act concerning the organization and perpetuity of voluntary associations, and repealing an act entitled 'An Act concerning the organization of voluntary associations and repealing former laws in reference thereto,' approved February 12, 1855, and repealing each act repealed by said act, and authorizing gifts or devise by will to be made to any corporation or purpose contemplated by this act," approved February 20, 1867, and declaring an emergency, which bill was read the first time and passed to the second reading.

[The bill provides that upon the filing of such record in the Recorder's office, every such association be deemed a corporation with all the rights and privileges given to corporations, to sue and be sued, to borrow money and secure the payment of the same by notes, mortgages, &c., for the purpose of erecting buildings and for other proper objects of such corporation; to take effect from and after its passage.]

BANK STOCK TAXATION.

Mr. GREGG asked and obtained leave to introduce a bill [S 4] for an act to provide for the assessment and collection of taxes for municipal purposes on the shares of capital stock owned or held by any person or body corporate in any bank or banking association chartered or organized under the laws of this State, or chartered or organized under the laws of the United States, including the Bank of the State of Indiana and its several branches, and national banks or banking associations.

[The bill provides that the County Auditor shall, on or before the first day of April in each year, furnish to the Mayor or other proper officer of each town or city in the county in which any bank or banking association may be located, a certified copy of the sworn statement of the President or cashier of such association, made in pursuance of the act passed and approved March 15, 1867. If no such sworn statement is made, the Auditor shall furnish any information he may have in regard to the stockholders of such bank and the number of shares held by each, and the stockholders shall be taxed upon the shares of bank stock held by each for municipal purposes, according to the rate chargeable on other personal property. The President, cashier, or other proper officer may pay such taxes and charge the amount against the stockholders, which may be deducted from any dividend on such stock as may be declared thereon. Taxes assessed upon shares of bank stock shall be a lien on said stock until payment, and shall attach on the first day of each May for which the assessment is made. The value of real estate in which the capital of a bank is invested shall be deducted from the cash value of the shares.]

It was read the first time and passed to the second reading.

NEWSPAPERS.

Mr. BROWN offered a resolution authorizing the Doorkeeper to contract for five copies of the *Daily Journal* and five copies of the *Daily Sentinel*, for each Senator—four copies of each day's paper to be enveloped and stamped.

Mr. SARNIGHAUSEN moved to amend by adding one copy of the *Daily Telegraph*, and six copies of the *Weekly Volksblatt*, to be enveloped and stamped.

Mr. BROWN accepted the amendment.

Mr. NEFF moved to further amend by inserting "two" copies of the dailies instead of "five."

On motion of Mr. BROWN the amendment was laid on the table.

Mr. THOMPSON. I am requested to move to amend by adding the *Saturday Evening Mirror*, a weekly paper published in the interests of the colored population. [Laughter.]

Mr. BROWN. The Senator from Owen desires to me ask if that is a Greeley paper?

Mr. THOMPSON. The wrong paper has been laid on my desk. It is the *National Beacon*, published in the interests of the colored population of this city and State. I am requested to move that the resolution be amended so as to embrace six copies of this.

Mr. BROWN accepted the amendment.

Mr. BEESON submitted the following substitute for the pending resolution:

RESOLVED, That a committee of five be appointed by the President to fix the amount to be allowed each member for paper, stationery, &c.

Mr. BROWN. I see no necessity for this subject being embraced in that resolution; that has reference to stationery more particularly. I think we might as

well pass this resolution. I suppose we can tell how many newspapers we want as well as a committee.

Mr. BEESON. I have found in my experience here that the paper question is one of the most vexed questions we have to meet. For several terms the whole matter has been referred to a committee, and this resolution includes the amount of stationery as well.

Mr. BROWN. I will withdraw my resolution, and let the whole matter go under the resolution of the Senator [Mr. Beeson].

The substitute [Mr. Beeson's] was adopted.

The PRESIDENT subsequently made this committee to consist of Messrs. Beeson, Brown, Dittemore, Rhodes and Hall.

RAILROAD AID STOCK.

Mr. TAYLOR asked and obtained leave to introduce a bill [S. 5] for an act to require railroad companies to issue stock paid for by taxes voted in aid of the construction of railroads to taxpayers or their assignees, and to issue unclaimed stock for the benefit of the common school fund, which was read the first time and passed to the second reading.

LOCKS FOR DESKS.

Mr. WADGE offered the following:

BE IT RESOLVED, That the State Librarian be instructed to see that secure locks be put on the drawers in the desks of Senators, and that the Doorkeeper be instructed to exercise diligence in preventing articles being extracted therefrom.

It was adopted by consent.

PAY TO EMPLOYES.

Mr. THOMPSON offered the following:

RESOLVED, That J. W. Cookerly be allowed five days' pay and mileage for his services as Doorkeeper in the organization of the Senate, and that the President *pro tem.* be authorized to draw his warrant on the Auditor of State for that amount, to be paid out of any money hereafter appropriated for legislative purposes.

Mr. DWIGGINS. I move that it be referred to a committee of three, the chairman to be the Senator who introduced the resolution, which committee shall ascertain and report the amount due each of the others who assisted in the organization of the Senate.

This motion was agreed to upon a division of the Senate.

SESSION HOURS.

On motion of Mr. BROWN, so much of the resolution in memory of Hon. John W. Burson as referred to the adjournment of the Senate was reconsidered.

LEAVES OF ABSENCE

were granted till Monday to Messrs. Steele, Winterbotham, Boone, Hough, Armstrong, Francisco and Daggy; and till Tuesday to Messrs. Beggs and Gooding.

And then the Senate adjourned until tomorrow morning at ten o'clock.

THE

BREVIER LEGISLATIVE REPORTS.

THIRTEENTH VOLUME.

INDIANA LEGISLATURE.

HOUSE OF REPRESENTATIVES.

THURSDAY, November 14, 1872.

The House met at nine o'clock a. m.

The SPEAKER directed the Clerk to read the journal of yesterday; and the same having been read through by the Clerk, it was corrected and approved by the House.

THE GOVERNOR'S ANSWER.

Mr. SHIRLEY, from the special joint committee to inform the Governor of the organization of the General Assembly in Special Session, etc., reported that His Excellency signifies his readiness to deliver a message to the two houses in joint session this day at two o'clock p. m.

Mr. CAUTHORN submitted the following, which was adopted:

RESOLVED, That the Senate be invited to meet the House this afternoon at two o'clock in joint convention, in the hall of the House of Representatives, to hear such communications as His Excellency, the Governor, may see proper to make to the General Assembly; that seats be prepared for Senators on the right of the Speaker's chair, and that the Clerk inform the Senate of the adoption of this order.

POLICE REGULATION.

Mr. BUTTS submitted the following:

RESOLVED, That every elected or appointed officer of this House who shall be negligent of his duty, or guilty of intoxication during the sessions of the House, shall forfeit his position and all compensation thereafter; and that any page guilty of intoxication or of using profane language shall forfeit his position and be displaced by the Speaker.

Mr. OFFUTT moved, ineffectually, to lay it on the table—affirmative 34, negative not counted.

And then the resolution was adopted without a division.

THE HOUSE POSTOFFICE.

Mr. HARDESTY presented a proposition from Messrs. Henry C. Painter and William M. Merwin to discharge the duties of the postoffice for the General Assembly, as follows:

WHEREAS, It has cost the State of Indiana twenty-five dollars per diem to carry on the postoffice of the General Assembly for the last several sessions;

We, Henry C. Painter and William M. Merwin, agree and will enter into bond to faithfully discharge the duties of Postmaster, as aforesaid, for the sum of $15 per day.

It was referred to the Special Committee on Employees—not yet appointed.

REVISED STATUTES.

Mr. BILLINGSLEY submitted the following:

RESOLVED, That the Librarian be requested to furnish each member of the House with a copy of the Revised Statutes of the State.

Mr. CAUTHORN proposed to amend by adding the words, "and that the same be returned at the close of the session to the State Librarian."

The amendment was agreed to, and the order, as amended, was adopted.

CHAPLAIN SERVICE.

Mr. CLARK submitted the following:

RESOLVED, That this House will spend the time, not exceeding ten minutes, in divine worship each morning on assembling.

It was adopted—affirmative 53, negative not counted.

THANKS TO JUDGE BUSKIRK AND OTHERS.

Mr. WALKER submitted the following, which was adopted:

RESOLVED, That the thanks of this House be tendered to Hon. Samuel H. Buskirk, of the Supreme Court, and to the officers of the last House of Representatives for their services in the organization of this House.

THE GENERAL ELECTIONS.

Mr. MELLETT introduced a bill [H. R. 1] for a proposition to amend the Constitution of the State in Sec. 14 of Art. 2 thereof, so as to require that all general elections shall be held on the Tuesday next following the first Monday in November.

The proposition was read the first time by the Clerk.

Mr. SHIRLEY. There is a proposition already pending to amend the Constitution of the State, and, according to the constitutional provision for the amendment of that instrument, till that is disposed of we can't offer another.

The SPEAKER. If there is no objection the House will pass over the proposition informally.

THIRD JUDICIAL CIRCUIT.

Mr. PEED introduced a bill [H. R. 2] for an act to fix the time for holding courts in the Third Judicial Circuit; the duration of the terms thereof, and declaring when this act shall take effect, and repealing all laws inconsistent therewith. [It embraces the counties of Gisbon, Knox, Daviess, Martin, Pike and Dubois.]

CORPORATION DRAINAGE LAW.

Mr. BUTTERWORTH introduced a bill [H. R. 3] for an act to repeal an act to authorize the construction of levees, dykes and drains by incorporated companies, approved May 22, 1869, and an act supplementary thereto, approved February 23, 1871.

Mr. HATCH introduced a bill [H. R. 4] for an act to repeal an act entitled "An Act to authorize and encourage the construction of levees, dykes and drains, and the reclamation of wet and overflowed lands by incorporated companies, and to repeal all former laws relating to the same subject," which act took effect May 22, 1869; and also to repeal an act entitled "An Act supplemental to an act entitled an act to authorize and encourage the construction of levees, dykes and drains, and the reclamation of wet and overflowed lands by incorporated companies, and to repeal all former laws relating to the same subject," which act took effect May 22, 1869, and providing penalties for the violation of the provisions thereof, approved February 23, 1871.

EXEMPTION LAW.

Mr. SATTERWHITE introduced a bill [H. R. 5] for an act to amend an act to exempt property from sale under legal process in certain cases, approved Fubruary 17, 1852. It proposes to extend the exemption from $300 to $500.

These bills were severally read the first time and ordered to the second reading.

HOUSE CALENDAR.

Mr. GLAZEBROOK submitted the following:

RESOLVED, That the Principal Clerk be requested hereafter to furnish each member of the House daily with a printed calendar of all pending bills—stating by whom introduced—with the exact title of the same.

It was referred to the Special Committee on Newspapers, etc.

And then, on motion of Mr. BRANHAM (the Senate not being in session this morning), the House took a recess till two o'clock p. m.

AFTERNOON SESSION.

The SPEAKER called the House to order at two o'clock.

Mr. WOODARD asked and obtained leave of absence for Mr. Wesner till Monday afternoon.

SPECIAL COMMITTEE ON EMPLOYEES.

The SPEAKER announced the Special Committee on Employees, under the order of the amended resolution submitted by Mr. Walker yesterday, to-wit: Messrs. Walker, Woodard, Johnson, Eaton and Ogden.

THE JOINT CONVENTION—GOVERNOR'S MESSAGE.

At this time the officers and members of the Senate were received in the Hall and seated on the right—the President *pro tem.* of the Senate presiding on the right of the Speaker.

The PRESIDENT of the Senate—Gentlemen of the Senate and House of Representatives: We have met in obedience to a joint resolution of both houses in joint convention to hear the message of the Governor. I am informed that there is a minister of the gospel present [Rev. Mr. Kumler] who will officiate as chaplain. He will please come forward.

Mr. Senator WADGE, from the Senate portion of the special joint committee to wait on the Governor, submitted (in-

formally) the report of service in that matter.

On the motion of Mr. Senator BROWN it was ordered that another special joint committee of three be appointed to wait on the Governor and tell him that we are ready to receive his message.

This committee was appointed by the two presiding officers, to-wit: Mr. Brown on the part of tne Senate, and Messrs. Cauthorn and King on the part of the House of Representatives. But presently the Governor appeared in the Hall.

Under the foregoing order for chaplain service the members of the convention now rose, and the Rev. J. P. E. Kumler, pastor of the First Presbyterian Church of this city, said the prayers, standing at the right of the President.

The PRESIDENT of the Senate. If it is the pleasure of the convention, the body will now hear the message of the Governor.

Whereupon, His Excellency, Governor Baker, ascended the dais, and standing at the Speaker's table he read his first special message. [See Appendix.]

The following papers accompanied the Governor's Message:

THE STATE HOUSE OF REFUGE—SPECIAL REPORT OF COMMISSIONERS OF THE HOUSE OF REFUGE, REFERRED TO IN AND SUBMITTED WITH THE GOVERNOR'S MESSAGE.

To the Governor of the State of Indiana.

In anticipation of our annual report, to be made up to the close of the present year, the Commissioners of the House of Refuge for Juvenile Offenders beg leave to present to you and the General Assembly, the following facts and suggestions. The General Assembly of 1869 appropriated $30,000 per annum for the current expenses of this institution, including the salaries of its officers. It also enacted "that whenever there shall be a failure at any regular biennial session of the General Assembly to pass an appropriation bill for this object, it shall be lawful for the Governor, Secretary and Treasurer of State to direct the Auditor of the State to draw warrants on the State Treasury for an amount not exceeding the last appropriation." At the time these laws were passed there were 118 inmates in the institution. An appropriation having been made at the same time for an increase in the buildings of the institution, one main building and one family house had been completed, and were ready for occupancy before the 1st of January, 1871. The great pressure of boys who were legally committed to the institution, many of whom were in prison, led the Commissioners to authorize their reception into the institution as soon as the houses were done, with the expectation that the General Assembly of 1871 would make the neccessary appropriation for their support. No appropriations were, however, made by that General Assembly, and we were left without any means whatever for the support of the institution from January 1 to April 1, 1871, the appropriation for the year having all been exhausted before the 1st of January, 1871. We were thus left with a family of 220 to support upon the sum appropriated when it reached only 118. It did not seem to us expedient to discharge upon the community unreformed boys, and as other boys were being constantly committed, we have thought best, since, to receive some of them, especially from counties not represented in the institution, as places were made vacant by the discharge of boys on the ground of reformation. The institution has thus been kept full to its utmost capacity up to the present time, and there are now 200 boys in it. To meet the extra expense over the amount of appropriation we have been compelled to resort to the use of credit in our purchases, and especially to a loan. This loan now amounts to $18,831 62, and the other indebtedness of the institution will reach $3,500.

For these we would respectfully but earnestly ask that an appropriation may be made, as well as of a sum sufficient to pay the current expenses of the institution up to the first of April next, the termination of our fiscal year, which expenses we estimate at $4,000. We would also respectfully suggest some modification of the present laws, especially one applying the amount received from the counties directly to the support of the institution, instead of placing it in the State Treasury as heretofore. Experience has also taught us that boys of eighteen years are too old for such an institution as ours, more especially, since not unfrequently, by misrepresenting their age, boys much beyond that procure admission in preference to being sent to the State Prison. The discipline to be applied to such as these should be more severe than is requisite for younger boys; hence, we suggest that the limit be reduced to sixteen years of age. The institution has been eminently successful in accomplishing the object of its erection, and a very large portion of the boys, 150 in number, who have been discharged, are doing well. We are not surprised that there should be some exceptions, and that a few

of our boys should be found in the State Prison, as it would be impracticable permanently to reform every boy sent here. Whilst we endeavor to see that all the boys discharged are provided with suitable homes, it sometimes happens that they soon reach an age which leaves them without restraint, and being surrounded by evil influences, they find their old associates, and return to the haunts of wickedness. But notwithstanding some such cases have occurred, far the larger portion are returned to the community to make useful citizens and fill their post in the duties of life. We have been compelled to decline, for want of room, more than one hundred and fifty boys who have been regularly committed to our care. Some of these are sent to the State Prison, others to the County Jails, and others still are turned loose on the community, to enter again on a life of crime, or become a charge upon the public.

We are fully satisfied, as a matter of public economy, as well as for the public good, an appropriation should be made for an increase of buildings, to an amount not less than $15,000.

All of which is respectfully submitted.

CHARLES F. COFFIN,
A. S. EVANS.
JOHN W. RAY,
} Com'rs.

HOUSE OF REFUGE, Nov. 11, 1872.

INLAND COMMERCE—COPY OF LETTERS FROM THE PRESIDENT OF THE UNITED STATES, REFERRED TO IN MESSAGE.

To His Excellency, Conrad Baker, Governor of Indiana:

SIR: I transmit herewith a copy of a treaty concluded in this city on the 8th day of May last, between the United States and Great Britain. By the 27th Article, the Government of the Dominion of Canada engages to secure to the citizens of the United States the use of the Welland, St. Lawrence and other canals in the Dominion on terms of equality with the inhabitants of the Dominion, and the Government of the United States engages to urge upon the State Governments to secure to the subjects of her Brittannic Majesty the use of the several State canals connected with the navigation of the lakes or rivers traversed by or contiguous to the boundary line between the possessions of the High Contracting parties, on terms of equality with the inhabitants of the United States.

The wisdom and the importance of these reciprocal connections of the use of the artificial channels of water communication contemplated by the treaty on terms of equality to the citizens or subjects of either power are apparent. The rapid increase of population and of production of the vast territory on either side of the boundary line and on the upper lakes, demands all the channels of communication with the tide waters, which either nature or the enterprise of man has made available. It is confidently believed that the use of the artificial water communications which the treaty contemplates will contribute to a rapid increase of trade, through those several channels, and will tend to a consequent increase in the tolls and returns of profits, both direct and indirect, to each and all of the canals thus open to the use of a larger extent of country. As the period is approaching when the Legislature of your State is about to convene, I desire to bring the provisions of this article of the treaty to its notice, and to urge upon your State Government to secure the subjects of her Britannic Majesty the use of the several State canals within the State of Indiana, connected with the navigation of lakes or rivers, traversed by or contiguous to the boundary line between the possessions of the United States and those of Her Britannic Majesty in North America, on terms of equality with the inhabitants of the United States. I address a similar request to other States, through which are constructed canals connected with the navigation of the lakes. I have the honor to be, etc, etc.,

U. S. GRANT.

EXECUTIVE MANSION,
WASHINGTON, November 25, 1871.

THE TRUST FUND—COPY OF LETTERS FROM SECRETARY OF INTERIOR, REFERRED TO IN THE GOVERNOR'S MESSAGE.

SIR: I have the honor to direct your attention to the following statement showing the amount of interest due the Indiana Trust Fund on Indiana five per cent. stocks, after deducting a balance of $1,346 80 due the State of Indiana, on account of an overpayment of interest made in a settlement of accounts with an agent of this Department in 1868, viz:

To interest due on $69,000 Indiana five per cent. stocks, from July 1, 1868, to January 1, 1872	$12,075 00
To interest on $1,000 five per cent. bonds from January 1, 1856, to January 1, 1872	800 00
Amount	$12,875 00
By amount due the State of Indiana on account of overpayment of interest in 1868.	1,446 80
Balance of interest due January 1, 1872	$11,528 20

This statement is taken from a report on the subject furnished me recently by the Commissioner of Indian Affairs. I have furnished the Hon. M. C. Kerr with a copy of this report, which he informed me would be forwarded to the proper officer in your State. I desire respectfully to call your attention to the subject, and shall be obliged if you will inform me of the intentions and desires of your State in regard to it.

I am, sir, very respectfully, your obedient servant, C. DELANO, Secretary.

Hon. C. Baker, Governor of the State of Indiana:

DEPARTMENT OF THE INTERIOR,
WASHINGTON, D. C., March 25, 1872.

SOUTHERN PRISON—REPORT OF THE DIRECTORS.

To the Governor of Indiana:

DEAR SIR—We herewith transmit to you a special report from the Warden of the financial condition of this Prison. And through you we would respectfully ask from the Legislature an immediate appropriation for the payment of the various sums of indebtedness therein stated. The necessities which led to the creation of these liabilities have been set forth in former reports, and the interest required to carry this indebtedness bears heavily on our income. The repairs and alterations suggested seem to us imperatively required by a due regard to the public interests. Indeed, the state of the Prison is such that it would be good economy in the Legislature to authorize a general renovation. If this is much longer neglected either a much larger sum will be required to put it in order, or steps must be taken for the erection of a new establishment. It is believed that the sum asked for by the Warden, with a small sum for miscellaneous repairs each year, will answer until the end of the present contracts, when the State will have to take decided steps toward renovation. It will be seen that the Warden gives an estimate of the probable receipts and expenditures during the next two years This estimate is believed to be reliable. Heretofore for many years no appropriations have been made for current expenses, but the income of the prison has been applied at the discretion of the managers. We believe the law requires an appropriation, and that there is no authority to draw money for any purpose without. We would respectfully call attention to the fact that the salaries paid the Warden, Deputy Warden, Clerk and Chaplain were fixed many years ago, when the cost of living was much less than now, and that they should be increased. If the Legislature, at its special session, shall propose any general revision of the prison laws, we will be pleased to give any information, as suggested by our experience, if called on to do so. All of which is respectfully submitted.

R. S. HEISKELL,
W. W. CURRY,
Directors.

INDIANA STATE PRISON SOUTH,
JEFFERSONVILLE, October 18.

REPORT OF THE WARDEN.

To the Board of Directors:

In view of the fact that the Governor has called an extra session of the Legislature, to which he will desire to submit a statement of the condition of this institution, I hand you this statement of its financial affairs: The total receipts of the prison for the current year ending December 15, next, will be about $60,000. The current expenses for running the institution about $55,000, showing a surplus of $5,000 to be applied on former indebtedness; and giving evidence that at the price of the present contracts the prison will more than meet its ordinary expenses. By referring to former reports, it will be seen that our indebtedness at the close of the last year was then $12,020 55. But this was based on an estimate of losses which have not been realized. There remain claims of $1,716 60 against Hopkins & Stanton and A. W. Hall & Co., which have not been collected, and are not likely to be; adding this to the debt of last year, and subtracting the surplus of this, we have a debt for the close of this year of $8,737 15. In addition to this there is an indebtedness of $10,000 on account of the alterations and repairs, including the fence, to adapt the premises to the use of the car company, under present contracts; and that $12,000 furnished by the Governor to repair damages of the fire; an entire obligation of over thirty thousand dollars to be provided for. I am compelled in every report to call attention to the general state of dilapidation of the premises, constituting a continual bill of expenses. In consequence of having no appropriations for repairs for the last two years this has borne heavily on our friends, so that only temporary expedients could be resorted to. The condition of the roofs of the cell houses and shops is such as to absolutely require re-covering, and this can not be done without considerable expense. There are by actual measurement

76½ squares, which can not be tinned at present prices for less than $1,000. The annual appropriations for several years past have been largely absorbed in patching up these roofs, and it will be sound economy to replace them with new material at once. It is hoped in a few months the females will be removed to the new Reformatory, and then it will be advisable to make some alterations.

The present female wards could be converted into wards for insane prisoners, of which we have several, who ought to be separated from the body of convicts, both for safety and moral effect. To do this, and fit up about twenty new cells on the north side of this wing, will cost about $3,000. One of the heaviest bills we are called upon to meet is that for fuel and lights. Our gas is supplied by the City Gas Works, and our heating is mainly by stoves. The annual cost of these two items is about $3,600. I am satisfied from careful estimates that the apparatus to make our own gas, and to heat by steam could be put in for about $4,000, and that we should hereby save one-half of our annual bill for fuel and light. The houses furnished by the State for the Warden and Deputy Warden are old, and in great need of repairs. I would respectfully ask for $1,500 as actually required for this purpose. According to law, it is the duty of the Legislature to make the neccessary appropriations for the current expenses of the prison. To enable it to do this intelligently the following estimates are furnished for the next two years: Average number of convicts, 400; of this number the daily average on contract will be about 330, the remainder being in hospital, laboring for the State, etc., 310 days per year at 60 cents. Receipts—Convict labor, $61,380; from keeping United States prisoners, $1,500. Total, $62,880. Expenditures—salaries of Guards, etc., $20,000; provision, $22,000; clothing, $7,000; fuel and lights, $3,600; gate money to discharged convicts, $2,250; library, $500; escaped convicts, $500; printing and stationery, $200; hospital, $1,200; miscellaneous expenses, $1,100. Total, $58,650. This estimate leaves a surplus of $4,230 for each of the next two years, which will pay off all debts growing out of the deficiencies in merely running expenses during the last four years.

To recapitulate there will be needed $30,737 to meet all past deficiences, including the fire; $18,000 for necessary repairs and improvements, and $58,650 for annual expenses; and there is reasonable certainty of an annual income of $62,780. Very respectfully submitted.

L. S. SHULER, Warden,

INDIANA STATE PRISON SOUTH,
JEFFERSONVILLE, October 18, 1872.

SOLDIERS' MONUMENT.—MEMORIAL TO THE GOVERNOR.

To His Excellency Conrad Baker, Governor of the State of Indiana:

The undersigned respectfully represent to your Excellency that at a large meeting of the citizens of this State, assembled at Crown Hill upon the 30th of May last, to decorate the graves of the soldiers, the following resolutions were unanimously adopted, viz:

RESOLVED, By this vast concourse of citizens assembled to decorate the graves of the Union soldiers, at the State Capital, that we feel that the great and prosperous State of Indiana owes it to the memory of her brave sons who periled their lives in the service of their country, to erect a State monument that shall stand as a perpetual memorial of their patriotic deeds. To that end we respectfully ask the Governor to recommend to the Legislature, and the Legislature to provide for the erection at the Capital of the State, in the park known as the Governor's Circle, a grand monument "to the memory of Indiana soldiers who periled their lives in the service of their country."

RESOLVED, That the following gentlemen be requested to act as a committee to further the object contemplated by these resolutions, viz: General Nathan Kimball, General A. P. Hovey, General Thomas A. Morris, General J. C. Veach, Hon. W. H. English, General Ben Spooner, General W. Morrow, W. H. Morrison, Esq., General B. F. Scribner, General Ira Grover, General Chas. Cruft, General M. D. Manson, General R. H. Milroy, J. H. McKernan, Esq., General Wm. Grose, General Sol. Meredith, General Noel Gleason, General Rueben Williams, General G. H. Chapman, General Silas Colgrove, General Thomas M. Browne, Hon. T. A. Hendricks, General Thomas Brady, General Dan. Macauley, General Joseph Dodge, General G. F. McGinnis, General O. S. Gooding, L. W. Hasselman, Esq., General J. R. Slack, Alfred Harrison, Esq., General R. S. Foster, J. M. Tilford, Esq., General Lew Wallace, S. A. Fletcher, Esq., General Reuben Kise, Robert Connely, Esq., General Fred. Knefler, R. J. Bright, Esq., General Milo S. Haskell, Bishop Talbot, General J. P. C. Shanks, David Macy, Esq., General Benj. Harrison, General J. P. Baird, General W. Q. Gresham, E. S. Alvord, Esq., General Laz. Noble, Hon. John C. New, John Fishback, Esq., General A. Stone, General Jasper Packard, General John Coburn, General M. C. Hunter, J. H. Vajen, Esq., Hon. J. W. Gordon, Dr. W. C. Thompson, J. C. Yohn, Esq., Hon. E. B. Martindale.

On the 1st of the present month at a meeting of the aforesaid committee at the Board of Trade Rooms, in the city of Indianapolis, an association was formed to be called the "Indiana Monumental Association," and officers were duly chosen. At the same meeting a resolution was unanimously adopted, as follows:

RESOLVED, That the President and resident managers be instructed to present at an early day, to his Excellency, the Governor of this State, a copy of the resolutions adopted on the 30th of May last, upon the occasion of the decoration of the soldiers' graves at

Crown Hill, and to respectfully request him to recommend to the Legislature the erection of the State Monument referred to in that resolution.

In pursuance of the foregoing resolution we respectfully request your Excellency to recommend to the General Assembly at the next session, that an appropriation, equal to the aggregate of two cents for each inhabitant of the State, be made toward defraying the expenses of erecting upon the ground known as the Governor's Circle, such a monument as shall commemorate the patriotism of our soldiers and sailors in a manner creditable to the liberality of the State

T. A. MORRIS, Pres't.
FRED KNEFLER, Sec'y.

NATHAN KIMBALL,
BENJ. C. SHAW,
BENJ. HARRISON,
WILLIAM H. ENGLISH,
GEO. H. CHAPMAN,
Board of Managers.

The PRESIDENT of the Senate. The purpose for which the General Assembly was convened having been accomplished, I pronounce this Convention adjourned without day.

The Senators and officers of the Senate then retired from the Hall.

The SPEAKER again called the House to order.

Mr. BAKER submitted the following, which was adopted:

RESOLVED, That the message of the Governor be referred to the committee of the whole House, and made the special order of the day, for Monday next at three o'clock p. m.

U. S. SENATOR ELECTION.

Mr. BRANHAM. I wish to call the attention of the House to the law in relation to the election of United States Senators. I will send it up to the Clerk for the purpose of having the particular section read which provides for the time of that election.

The Clerk read the section indicated.

Mr. BRANHAM. That shows clearly that our election of the next United States Senator for Indiana must be held on Tuesday week.

Mr. CAUTHORN considered the reading wholly unnecessary. Gentlemen read the law.

WILLIAM M. MERWIN AND OTHERS.

Mr. SATTERWHITE submitted the following:

RESOLVED, That Wm. M. Merwin, C. S. McDonald and D. H. Long be each allowed two days pay at five dollars per day for services rendered in the House of Representatives to be paid out of any monies appropriated for legislative expenses.

The SPEAKER observed, that there was no appreciable affirmative vote on the passage of the resolution.

Mr. FURNAS. I presume that there are other gentlemen who, like myself, feel some hesitancy in acting on that resolution—because they may not know these gentlemen. I do not know Mr. Long. And there is another gentleman, an officer of the House of the last session who has been assisting in this organization, whom I would be glad to see compensated. I would be glad for all these gentlemen to receive the proper remuneration. I presume it is all right, but this is the reason I did not vote.

Mr. HELLER referred to the resolutions for ordering such compensation which have been already passed by the House.

The resolution was referred to the committee on employes.

NEWSPAPERS.

Mr. WOLFLIN submitted the following:

RESOLVED, That each member of the House of Representatives be furnished with two copies of the *Daily Journal*, one copy of the *Daily State Sentinel*, one copy of the *Daily Telegraph*, and one copy of the *Weekly Volksblat*.

Mr. SATTERWHITE proposed to amend the order by making it two copies of the *Daily Sentinel* instead of one copy; and by adding: "one copy of the *Evening News*."

Mr. FURNAS did not see the necessity of taking any but the papers representing the two political parties, and one paper printed in German out of respect to our German population.

Mr. LEE proposed to amend by adding: "One copy of the *Evening Journal*."

The amendment was accepted.

Mr. BRANHAM moved to lay the resolution and the proposed amendments on the table.

Mr. CAUTHORN made the point that there is an order of the House requiring all such resolutions as this to be referred to the special committee on employees without debate.

The SPEAKER sustained the point of order, and the propositions were accordingly referred.

Mr. LENFESTY submitted the following:

RESOLVED, That the time of the daily meeting of the House till further orders shall be 9½ o'clock, A. M. instead of 9 A. M.

The resolution was rejected.

INDIANA CENTENNIAL ASSOCIATION.

Mr. KIMBALL introduced a bill [H. R. 6] for an act creating the Indiana Centennial Association.

Mr. GIVAN introduced a bill [H. R. 7] for an act providing that Justices of the Peace shall have exclusive jurisdiction of certain cases of misdemeanor, and repealing all acts conflicting therewith. [All cases of misdemeanor punishable by fine not exceeding twenty-five dollars.]

These bills were read the first time and ordered to the second reading.

WABASH AND ERIE CANAL.

The SPEAKER announced the special committee to consider Mr. Shirley's joint resolution for amendment of the State Constitution so as to prohibit legislation for the payment of the debt charged upon the Wabash and Erie Canal, viz.: Messrs Whitworth, Woodard, Miller, Walker, Shirley, Offutt, Richardson, Hardesty, (Chairman), Mellett, Thayer and Butterworth.

Mr. KIMBALL submitted a joint resolution agreeing to and adopting an amendment proposed to the Constitution by the General Assembly by adding to the tenth article a section in relation to the debt charged upon the Wabash and Erie Canal.

It was read through by the Clerk.

Mr. RICHARDSON moved that it be referred to the select committee on that subject.

Mr. KIMBALL desired that the joint resolution should be put at once upon its passage. He hesitated to press the motion to table the motion to refer.

Mr. RICHARDSON. So far as he was concerned he did not care from which party this proposition came. As he understood it, this proposition is simply a copy of the joint resolution on the same subject offered yesterday by the gentleman on his left [Mr. Shirley].

Mr. SHIRLEY. The only difference between this and mine is, that I fixed the time of voting for ratification or rejection at the next general election, and this proposition leaves the time indefinite—yet to be fixed by the General Assembly.

Mr. CAUTHORN alleged a discrepancy in Mr. Kimball's proposition—that it is not a joint resolution, but simply a resolution of the House. (But the reading of the clause showed that he was mistaken.) He then submitted another objection The proposition does not provide the time when the proposed amendment shall be submitted. If it were amended so as to fix the time definitely or satisfactorily he would not object to its passage. He proposed to amend the joint resolution by adding in the proper place these words: "And if no time is designated by this General Assembly, then it shall be submitted to the people at the next general election to be held on the second Tuesday in October, 1874.

Mr. KIMBALL. I am willing to accept that.

Mr. RICHARDSON withdrew his motion for reference.

Further brief remarks were submitted by Messrs. Woollen, Given, Bowers and others, and further talk across the House resulted in perfecting the clause for the adoption of the proposed constitutional amendment and for the submission to the people.

The joint resolution was read as amended. It is as follows:

WHEREAS, The last General Assembly at the regular session thereof, passed, adopted and agreed to the following joint resolution, to-wit:

"A JOINT RESOLUTION proposing an amendment to the Constitution by adding to the tenth article a section in relation to the debt charged upon the Wabash and Erie Canal.

Be it resolved by the General Assembly of the State of Indiana, That the following amendment be and hereby is proposed to the constitution of this State, and that the same be and is hereby agreed to and submitted to the electors of the State for their ratification or rejection: *Provided*, The same shall be agreed to by a majority of all the members elected to each house of the General Assembly of this State, to be chosen at the next general election. Said amendment to consist of the addition of the following section to the tenth article of the constitution in the language following:

No law or resolution shall ever be passed by the General Assembly of the State of Indiana that shall recognize any liability of this State to pay or redeem any certificate of stock issued in pursuance of an act entitled, "An Act to provide for the funded debt of the State of Indiana, and for the completion of the Wabash and Erie Canal to Evansville," passed January 19, 1846, and an act passed January 29, 1847, which, by the provisions of the said acts, or either of them, shall be payable exclusively from the proceeds of the canal lands, and the tolls and revenues of the canal in said act mentioned, and no such certificate of stock shall ever be paid by the State.

Resolved further, That the foregoing joint resolution be, and the same is hereby referred to the General Assembly of this State to be chosen at the general election to be held on the second Tuesday in October, in the year of Our Lord one thousand eight hundred and seventy-two; now, therefore,

Be it Resolved by the General Assembly of the State of Indiana, That the said amendment proposed to the Constitution of Indiana, contained in said joint resolution, passed by the last General Assembly, as aforesaid, and hereinbefore recited, be, and the same hereby is agreed to and adopted by this General Assembly, and that the said amendment shall be submitted to the electors of the State for their ratification at an election to be called for that purpose in pursuance of such an act of the General Assembly as may hereafter be passed providing for such submission; and if no time is designated by this General Assembly, then shall be submitted to the people at the next general election to be held on the second Tuesday in October, 1874.

The SPEAKER. The question is: Shall the joint resolution be adopted and ordered to be entered upon the journal?

The proposition was again read through by the Clerk.

Mr. ANDERSON considered that the clause for submission to the people should

read, "for Ratification or Rejection.' Though he might prefer such a modification he should still vote for the measure.

The vote was then taken on the adoption of the joint rasolution, and the result was reported—Yeas, 97—Nays, none—as follows:

YEAS—Messrs. Anderson, Baker, Barrett, Baxter, Billingsley, Bowser, Blotcher, Branham, Brett, Buskirk, Butts, Butterworth, Broadus, Cauthorn, Clark, Claypool, Cline, Coffman, Cobb, Cole, Cowgill, Crumpacker, Durham, Eaton, Edwards, Ellsworth, Eward, Furnas, Gifford, Given, Glasgow, Glazebrook, Goble, Goudie, Gregory, Gronendyke, Hardesty, Hatch, Heller, Henderson, Hedrick, Hollingsworth, Hoyer, Irenhower, Johnson, Jones, Kimball, King, Kirkpatrick, Lenfesty, Lee, Lent, Martin, Meliett, Miller, McKinney, McConnell, North, Odle, Offutt, Ogden, Peed, Prentiss, Pfrimmer, Rudder, Reno, Reeves, Riggs, Richardson, Rumsey, Satterwhite, Schmuck, Scott, Shirley, Smith, Spellman, Stanley, Shutt, Strange, Teter, Tingley, Thompson of Spencer, Thompson of Elkhart, Thayer, Troutman, Tulley, Walker, Wilson of Ripley, Wilson of Jay, Willard, Wolflin, Woollen, Wood, Woodard, Whitworth, Wynn, Mr. Speaker—97.

NAYS—0.

So the joint resolution was adopted on the part of the House of Representatives.

HUNTING AND SHOOTING.

Mr. FURNAS introduced a bill [H. R. 8] for an act to prevent hunting and shooting on enclosed land without the consent of the owner thereof, and providing a penalty therefor.

The bill was read the first time and order to the second reading.

Mr. CAUTHORN submitted a motion for an order to inform the Senate forthwith of the passage of Mr. Kimball's joint resolution; and that the select committee on the matter of the joint resolution in relation to the Wabash and Erie Canal be discharged from further consideration of that subject.

The SPEAKER. The information will go the Senate without an order.

Mr. CAUTHORN. Then I withdraw that part of it, and submit the motion for the discharge of the select committee.

The motion was agreed to, and the co mittee was accordingly discharged.

MEMORY OF HON. JOHN W. BURSON.

Mr. HARDESTY submitted the follo ing preamble and resolutions:

WHEREAS, This House has heard with deep regre the death of Hon. John W. Burson, a member of Senate from the counties of Delaware and Madis that in his death the State has lost an able and corruptible patriot; therefore,

RESOLVED, That this House as a mark of respect the memory of the deceased, do now adjourn.

RESOLVED, That a copy of the resolution be tr mitted to the family of the deceased by the Cler the House.

Mr. CAUTHORN said he did not wi to be technical about such a matter this, but he would move to strike out t words, "a member of the Senate from t counties of Delaware and Madison," a insert other words in lieu of them. I was willing to join in any form of pression, however strong, to do honor the memory of the deceased; but as t Senate at the last regular session h taken a certain action declaring Mr. B son not a member of that body, t naming of him as a Senator in the reso tion might be unfavorably construed, b as against the fact and an unparliamenta reflection. He would, therefore, sub tute these words: "An honorable citi of the State of Indiana." He did n offer this from any feeling personal or litical, but simply on account of the acti which was taken by the Senate at the l session.

Mr. KIMBALL moved to lay the amen ment on the table.

The motion was agreed to.

And then the resolutions were adopt

The SPEAKER. In compliance w the action just taken, I declare the Ho adjourned till to-morrow morning n o'clock.

The House then adjourned.

THE

BREVIER LEGISLATIVE REPORTS.

THIRTEENTH VOLUME.

INDIANA LEGISLATURE.

IN SENATE.

FRIDAY, November 15, 1872.

The PRESIDENT took the chair at ten o'clock a. m. pursuant to adjournment.

The Secretary's minutes of yesterday's proceedings were read, corrected and approved.

BOOKS FOR SENATE OFFICERS.

Mr. DITTEMORE offered the following:

RESOLVED, That the Doorkeeper be requested to furnish the Principal Secretary of the Senate with one set of the Revised Statutes of Gaven and Hord, to be procured from the Secretary of State.

Mr. TAYLOR moved that the resolution be amended by providing that the Assistant Secretary shall be furnished with a copy also.

Mr. DITTEMORE accepted the amendment.

The resolution as amended was adopted.

PAPERS, POSTAGE STAMPS AND STATIONERY.

Mr. BEESON from the select committee on papers and stationery submitted a report authorizing the Doorkeeper to contract for five copies each of the Daily *Journal* and of the Daily *Sentinel*, four of each day's issue to be wrapped and stamped for mailing. Also five copies of the Daily *Telegraph*, five copies of the Weekly *Volksblatt* and five copies of the Weekly *Beacon*, all wrapped and stamped for each member. Also allowing each Senator, the President, the Principal and Assistant Secretary $20 worth of stationery, including postage stamps.

Mr. NEFF made an ineffectual motion to lay the report on the table till 2 o'clock, Monday, as many Senators were absent from their places.

The report was then concurred in.

NEW PROPOSITIONS.

Mr. WILLIAMS introduced a bill [S. 6] for—

"AN ACT to regulate and make uniform the prices charged by railroad companies, for transporting passengers, goods, wares, merchandise and other property, to and from stations on railroads in the State of Indiana, declaring the duty of certain officers in relation thereto, prescribing penalties for violation thereof, and declaring an emergency.

SECTION 1. *Be it enacted by the General Assembly of the State of Indiana*, That all railroad companies operating any railroad, or any portion thereof, in the State of Indiana, shall charge for transporting freight, goods, wares, merchandise, and other personal property, from one station to another upon and along the line of such railroad in the State of Indiana, in accordance with the rates and in the manner following, to-wit: For transporting aforesaid articles a distance of not exceeding twenty miles, not more than one hundred per cent. above the rates fixed and charged for transporting freight over the entire line of such railroad. For transporting aforesaid articles a distance of more than twenty miles, and not more than fifty miles, at a rate not exceeding seventy-five per cent. above the rates fixed and charged for transporting freight over the entire length of such railroad. For transporting the aforesaid articles a greater distance than fifty miles, at a rate not exceeding fifty per cent. above the rates fixed and charged for transporting freight over the entire length of such railroad. The rates aforesaid to be in proportion to the amount charged, fixed and demanded by such railroad company for "through freight," or for transporting freight over the entire line of such road; and in determining what such "through freight" is, or what the usual charge is, for transporting freight over the entire line, reference shall be had to the usual and customary prices or rates charged, demanded, published or received by such railroad company; and to such rates, in the same manner as aforesaid, shall be

added according to the distances transported as aforesaid the additional per centum of compensation above provided; *Provided*, That in no case for less than the whole distance shall the charge be greater than the through rates as published and posted up by such railroad. And no railroad company shall charge, demand or receive a greater rate of pay or compensation: *Provided*, That nothing herein shall be so construed as to compel the carrying of any package or quantity of goods for less than twenty-five cents."

It provides that the rate for passengers shall not exceed 3½ cents per mile, but no company shall be compelled to carry any passenger any distance for less than 15 cents.

Mr. FULLER introduced a bill [S. 7] for an act to repeal an act entitled: "An Act authorizing aid to the construction of railroads by counties and townships taking stock in and making donations to railroad companies, approved May 12, 1869, and declaring an emergency.

Mr. SMITH introduced a bill [S. 8] for an act to provide for holding courts in the 25th Common Pleas District of Indiana. [It affects the counties of Miami, Cass and Wabash.]

Mr. THOMPSON introduced a bill [S. 9[for an act fixing the salaries of Judges of of the Supreme Court, Sugerior Courts, Circuit Courts, Criminal Courts and Common Pleas Courts, and providing how said salaries shall be paid, and repealin all other laws in conflict therewith. [It fixes the salaries of Supreme Judges at $5,000 each; Superior Judges $4,000 each; Circuit Judges $3,000 each; Criminal Judges $3,000 each; all to be paid out of the State Treasury. And it fixes the salaries of Common Pleas Judges at $2,500 a year, to be paid out of the treasuries of the counties, each in proportion to the population according to the census of the U. S. of 1870. This act to take effect the first of January next.]

Mr. SARNIGHAUSEN introduced a bill [S. 10] for a bill to amend section fifty-eight of an act to repeal all general laws now in force for the Incorporation of Cities, prescribing their powers and rights and the manner in which they shall exercise the same, and regulating such other matters as shall properly pertain thereto, approved March 14, 1867. [Authorizing the Common Councils of cities to levy and collect an *ad valorem* tax of not more than one per cent., for general purposes, on all property subject to State and county taxation, and also on the stocks of all free banks, insurance companies, and all other joint stock companies, to be levied upon the stock of each individual stockholder, whether he be a resident of the State or not; also on railroad buildings or other property within the city limits, except rolling stock; also on omnibuses or vehicles run for the carriage of passen also a tax of not exceeding $2 on each or $5 on each bitch, and also a poll-ta exceeding 50 cents on each male inh ant over ten and under fifty years of

He moved that the rules be suspen so that the bill may be read a second now. He said the bill is a very impo one to the citizens of Fort Wayne, they were very anxious it should be p without delay.

Mr. WILLIAMS suggested that i yeas and nays were called, as require the Constitution, upon this motion, the Senate might find itself witho quorum.

Mr. SARNIGHAUSEN there withdrew his motion.

Mr. CAVE introduced a bill [S. 1 an act to fix the time of holding the cuit Courts in the several counties Third Judicial Circuit, and repealin laws in conflict therewith and declarin emergency. [It affects the counti Gilson, Martin, Pike, Dubois, Daviess Knox.]

Mr. BEESON introduced a bill [S. to give the rights of action for injuri certain cases and declaring an emerg [It provides that where any one is inj in person or property, or means of sup or otherwise, by any intoxicated perso by reason of the intoxication of any son, directly or indirectly, such an shall have the right of action, in or her own name, against any son or persons who shall by the givi selling of any intoxicating liquor, or o wise have caused or contributed to th toxication of such person committin injury, and in such action the pla shall have the right to recover part, spective and exemplary damages, and owner or lessee of premises, having kn edge that intoxicating liquors are t sold thereon shall be liable. Damage ceived by a wife in such action shal her sole and seperate property.]

Mr. WILLIAMS introduced a bill [S for an act requiring railroad companie ganized under any law of the State o diana, to keep their principal office wi the State, and have a majority of the di ors resident within the State of Ind and along the line of their road. this, even though a railroad, may been leased to an individual or fo corporation. Failure to comply with provisions shall work a forfeiture o charter.]

Mr. SMITH introduced a bill [S. 1 an act to amend section five, of an

entitled "An Act concerning Mortgages," approved May 4, 1852. [Providing that every mortgager or assignee of lands, having received payment, shall within thirty days of such payment enter on the margin of the record satisfaction in full or deliver to the mortgager a receipt in full, duly acknowledged, upon penalty of not less than five nor more than one hundred dollars.]

These bills were severally read the first time and passed to the second reading.

SARNIGHAUSEN AND BIRD CONTEST.

Mr. WADGE submitted the following:

RESOLVED, That the Committee on Claims be instructed to inquire and report what allowance, if any, should be made John Sarninghausen for expenses incurred in defending the contest of his seat in this body at the last regular session.

Mr. BROWN moved lo amend the resolution by directing the committee to inquire what expenses the Senator [Mr. Bird] who succeeded in the contest incurred.

Mr. WADGE accepted the amendment.

The resolution, as amended, was adopted.

The PRESIDENT announced as the committee on considering what allowances should be made to the officers of the last Senate who assisted in the organization of this Senate, Messrs. Hubbard, Haworth and Francisco.

On motion by Mr. BROWN, the documents accompanying the Governor's message were ordered printed therewith.

LEAVES OF ABSENCE

were granted to Mr. Rosebrugh till next week and Mr. Sarnighausen till Tuesday.

And then the Senate adjourned till Monday at two o'clock p. m.

THE

BREVIER LEGISLATIVE REPORT

THIRTEENTH VOLUME.

INDIANA LEGISLATURE.

HOUSE OF REPRESENTATIVES.

FRIDAY, November 15, 1872.

The House met at nine o'clock a. m.

The SPEAKER directed the reading of the journal of yesterday.

The reading proceeded, until—

On the motion of Mr. WOODARD, the further reading was dispensed with.

Mr. BAKER asked and obtained leave to record his affirmative vote on Mr. Kimball's constitutional amendment joint resolution, which passed the House unanimously on yesterday.

ADJOURNMENT TILL MONDAY.

Mr. CAUTHORN. Considering the difficulty about getting along with the business of the House till the standing committees shall be appointed; and that there is no special order but that for the consideration of the Governor's Message, which is fixed for Monday afternoon at three o'clock. He would move that when this House adjourn to-day, it shall adjourn till Monday at two o'clock p. m.

The motion prevailed.

RULES OF THE HOUSE OF REPRESENTATIVES.

Mr. OFFUTT, from a majority of the Special Committee on Rules, recommended the adoption of the rules of the last House of Representatives, with amendments as to the numbering, and an additional rule, No. 65, which was read: "Rule 65. Motions to lay proposed amendments on the table, if they prevail, shall not affect the general subject—the original proposition." He reported a recommendation for the adoption of joint rules for the government of the tercourse between the two houses as stood at the last session of the Ge Assembly, with an amendment as to joint rule No. 11, which was not read.

The vote was taken on concurrence the adoption of the reported amendm

Mr. CAUTHORN alleged a misu standing as to the proposed sixty- rule.

Mr. OFFUTT explained. The fifth rule was not adopted by the com tee in their session last night, but gentleman from Marion [Mr. Kimball sired it, and obtained the consent o members of the committee separate have it put into the report.

Mr. CAUTHORN. The new rule this: When an amendment to any p sition is laid on the table it does not the original proposition also to the But for the House to adopt this would abolish, ignore an established rule of liamentary law. The carrying o original proposition to the table in way—by tabling a proposed amendm does not finally dispose of the ori proposition under the generally recog parliamentary law, but simply post action. The object of the parliame rule which this sixty-fifth rule woul stroy is simply to enforce direct acti the merits of all amendments. I that rule will not be adopted. It i necessary to the dispatch of busines

Mr. WALKER. It was perfectly competent for this House to amend any parliamentary rule. This laying of an amendment on the table should not affect the original proposition, for in this way any member unfriendly to the pending measure might manage from day to day to table the most important proposition and postpone action indefinitely. The adoption of this rule here would not affect parliamentary law in any just principle. It is adopted in many legislative bodies.

The SPEAKER. The report and amendments have been adopted.

Mr. CAUTHORN. Then I will ask to submit my minority report, and re-open the question.

The SPEAKER. If there is no objection the gentleman can submit his report. There being no objection——

Mr. CAUTHORN wrote and sent up his minority report to this effect, which was read by the Clerk:

As a member of the select committee appointed to prepare and report rules I concur in the report of the majority, except as to the recommendation of the sixty-fifth rule.

The SPEAKER stated the question to be on the adoption of the minority report, and it was rejected—affirmative 33, negative 39.

The rules and reported amendments recommended by the majority of the committee were then adopted without division.

HOUSE OF REFUGE.

Mr. FURNAS submitted the following:

WHEREAS, it is a fact that none of the work done on the principal building last erected at the Reform School, commonly called the House of Refuge, situated at Plainfield, Indiana, has not yet been paid for—the Directors and Superintendent thereof maintaining that such work has not been done according to contract and specification in reference to said building; and,

WHEREAS, permanent work said to be absolutely necessary in the completion of said building has been done by the building contractor in completion of said building, and which to this time has not been paid for; compensation, therefor, refused to be made for said work in consideration of the same being outside of the specifications of the architectural design, as well as the inefficiency of the work; therefore,

RESOLVED, That a Committee of five be appointed by the Speaker of this House to investigate the matters of difference as above stated, with sufficient powers to send for persons and papers. And that said Committee be required to report the result of their deliberations at an early day.

Mr. FURNAS. Two years ago he had offered here a similar resolution, and he stated the cause of failure of its object. He now explained the necesity for this action. The foundation of that principal building was to be laid a certain depth; but when they came to look at it the builder thought it was not deep enough, and ordered them to go one foot deeper. That one foot involved them in a quicksand; and on account of this it was necessary to deviate from the plan of the architect; and on this account the directors refused to pay for the work, and the men that did it are not yet paid. It is a matter of justice that these men should be paid. I am acquainted with the facts, and I know that somebody should be remunerated for the work that has been done.

On motion of Mr. BRANHAM, it was referred to the Committee on Benevolent and Scientific Institutions.

FEES AND SALARIES.

Mr. WOODARD submitted the following;

RESOLVED, That there be appointed a Committee of one member from each Agricultural district to take into consideration the whole subject of Fees and Salaries; and that they report to this House at an early day,

Mr. BRANHAM. I hope we will not start out at this early day of the session to strip the regular committees of the House of their proper business. I move the reference of the resolution to the committee on Fees and Salaries.

Mr. WOODARD understood from the recommendation of the Governor, as well as from other sources, that this question of a just fees and salary law is a very important matter. The existing law is not satisfactory. It works injuriously upon the people, and all parties want relief, and, as the Governor says, the country would be very much better off to have the old law. This matter appertains to the finances—the taxation of the country. Then let us have this measure—the most important of the session—referred to a committee of one from each Congressional District, so that from all parts of the State we may collect the essential facts to act upon, and get a good fees and salary law. The regular committee will have enough to do without it, and the special will have the double advantage, ample time and complete knowledge what the people require.

Mr. WOOLLEN considered it best that this matter be confided to a special committee. At least I think it unnecessary to refer it to any committee unless it is composed of men who know the courts, and are well acquainted with official duties and responsibilities. I believe that a fee bill can be prepared that will be satisfactory, and will not be liable to the objections to the new law or the old law, and that this resolution might secure the appointment of a special committee of gentlemen who

are familiar with fee bills and courts, and can assure the needed reform.

Mr. SHIRLEY'S people generally were not annoyed by this question. Both parties in Morgan county (where he resides) accept the present fee bill. Only the office holders are not satisfied with it. From this fact he thought this ought not to be made a party measure here. It ought to be placed in the hands of a special committee. He would be in favor of a plan as to the appointment of this committee by which we might go outside of the General Assembly and call upon competent men to serve on it without respect to party. In this way he thought we might get out of this trouble, do justice to the people and justice to the public officers; and he did not believe that there could be selected from the members of this House a committee that could so well accomplish this result.

Mr. OFFUT said it might not be in the province of the House to raise such a committee as that proposed by the gentleman from Morgan and Johnson, [Mr. Shirley.] Both parties in his county were in favor of the principle of the law, desiring amendments in the details. The people, the tax payers, in favor of it—the office holders against it—but all were living up to it. He would like to see the resolution referred to such committee as would take the most interest in it, whether special or regular.

Mr. CLARK'S people were having considerable trouble over this matter, and he thought they were having it pretty much all over the State. It would require a committee of honest, intelligent, working men to secure a good law, and he was rather in favor of a special committee.

Mr. BRANHAM could not see why we could not have as good men for the regular as for the special committee. If we want to destroy the efficiency of the standing committees take the work of the session away from them.

Mr. LENFESTY regarded Mr. Shirley's proposition as an imputation on the intelligence of the House. He could not think that we are so partisan that we can't go for the best interests of the people. There was to be a regular committee of the House formed for the special purpose of taking this matter into consideration, and it occurred to him that our number is sufficient to assure any gentleman that a good selection could be made of men unbiassed by party spirit.

Mr. SHIRLEY had not intended to cast any reflection upon any member of the House. He desired to place this matter in the hands of a commission that coul consider it unhampered by other dutie He understood the Governor as favori such a course. He only wanted to insu a good thing—to carry out the idea of th Governor.

Mr. BAKER thought this discussio premature. It belongs to the things r commended by the Governor, and we into committee of the whole, on the G vernor's Message, next Monday. He w in favor of referring all questions of su importance as this to the regular co mittees of the House.

Mr. WALKER. There might be a co tingency in which he would be in favor the suggestion of the gentleman from Mo gan and Johnson [Mr. Shirley.] But th is a question which it did not seem to h to be proper to take out of the hands of th regular committee. He was in favor referring it now to the regular committe and after making a trial of it there, if n satisfactory, it might be taken out of the hands. I have not seen anything here y that authorizes the apprehension that th voice of partizanship will be heard in th Hall.

Mr. SATTERWHITE would be satisfi to refer the matter to the regular co mittee, but the standing committees a not yet appointed; and to give the Speak time for the work of those appointmen so that we may know what to do wi measures that come before us—he mov that the House adjourn.

The motion was rejected.

The resolution was then referred to th Committee on Fees and Salaries.

EMPLOYES.

Mr. BRANHAM submitted the follow ing:

RESOLVED, That this House recommend to the Co mittee on Employes that, when they can do so, th employ for pages and other service, such boys of t Soldiers' Home and the sons of soldiers, as they sh esteem able to discharge the duties assigned them.

Mr. WALKER. That should be a dressed not to the committee as t appointing power, but to the Speak Clerk and Door-keeper.

Mr. BRANHAM. I have no objecti to that.

The resolution, as modified, was th adopted.

PUBLIC PRINTER.

Mr. SHIRLEY introduced a bill [H. 9] for an act to repeal an act fixing t time and mode of electing State Print defining his duties, fixing his compen tion, and repealing all laws coming in co flict therewith, approved March 9, 1859.

It was passed the first reading.

CHAPLAIN SERVICE.

Mr. RAMSEY submitted the following, which was adopted :

RESOLVED, That this House take steps to procure chaplain service, and that the Speaker appoint three members to confer with ministers of the Gospel of this city, and engage such service.

Whereupon the Speaker appointed Messrs. Ramsey, Brett and Furnas to serve as said committee.

BREVIER LEGISLATIVE REPORTS.

Mr. HARDESTY submitted the following:

RESOLVED, That the Auditor of State be and is hereby instructed to communicate to this body the sum paid each year for the past twelve years to A. E. and W. H. Drapier, or others, on account of the paper, reporting, publishing or binding what is commonly known as the Brevier Reports.

It was adopted.

Mr. WOOLLEN introduced a bill [H. R. 10] for an act providing for the issue and sale of bonds to raise money by the civil townships of this State for the purpose of paying any debt incurred in purchasing or erecting any school building, or in the purchase of any ground whereon to erect any school building, or for the purpose of hereafter purchasing any ground or building for school purposes, or for erecting any school building, and authorizing the levy and collection of an additional special tax for the payment of principal and interest on such bonds.

[The County Commissioners to authorize the Township Trustee to issue bonds bearing 10 per cent. interest for any amount not exceeding ten per centum of the total taxable property of said township, in denomination not exceeding $1,000 and not less than $100, payable at any place that may be named in said bonds; the principal in not less than one nor more than ten years, and the interest annually or semi-annually. The Trustee to enter into bonds in double the amount of such bonds For payment of such bonds, the Township Trustee is yearly to levy a tax in addition to the special school tax, not exceeding 50 cents on the hundred dollars, and 50 cents on each poll—the surplus after redemption of the bonds to be a part of the School fund.]

The bill was read the first time and ordered to the second reading.

CUSHING'S MANUAL.

Mr. TROUTMAN submitted an order that the State Librarian furnish each member of the House with a copy of Wilson's Digest of Parliamentary Law, but accepted an amendment striking out "Wilson's Digest" and inserting "Cushing's Manual."

And so the order was adopted.

GOVERNOR'S MESSAGE.

Mr. COBB submitted the following:

RESOLVED by the House of Representatives, That fifteen hundred copies of the Governor's message read in the joint convention of yesterday be printed for the use of members of this House.

Mr. WALKER submitted the following amendment by way of substitute:

RESOLVED, By the House of Representatives, the Senate concurring therein, That there be printed in pamphlet form eight thousand copies of the Governor's message—fifteen hundred copies in the German language—one thousand copies for the Governor's own use, and that the remainder be distributed among the members of the General Assembly for circulation.

The substitute was adopted, making it a concurrent resolution, and so it was passed on the part of the House of Representatives.

Mr. SATTERWHITE moved an adjournment, but gave way for——

Mr. CAUTHORN, who (desirous of some orderly disposition of Mr. Shirley's constitutional amendment joint resolution to close the question of the debt of the Wabash and Erie Canal Company) moved that it be taken up and laid on the table, that matter having been superceded yesterday by the passage of Mr. Kimball's joint resolution.

The motion was agreed to,

And then the House adjourned till Monday at two o'clock p. m.

THE

BREVIER LEGISLATIVE REPORTS

THIRTEENTH VOLUME.

INDIANA LEGISLATURE.

IN SENATE.

MONDAY, November 18, 1872.

The PRESIDENT took the chair at 2 o'clock, p. m., pursuant to adjournment, and announced that a minister of the gospel being present—the Rev. HENRY DAY, of the First Baptist Church, of the city of Indianapolis—Senators would please arise while the throne of grace was being addressed.

FIRST PRAYER OF THE SESSION.

Dr. DAY prayed as follows:

In Thy presence, oh Lord God, help us always to remember our own littleness. In Thy presence help us to remember our own need of help. Graciously condescend to give us wisdom instead of ignorance, light instead of darkness, and help whenever in need. What we need Thou canst abundantly supply. Give, we pray Thee, to these Senators here assembled, wisdom. Thou knowest what great interests are depending upon them. Thou knowest, oh Lord, how much they need the guidance and wisdom that comes down from on high. Give to them this wisdom, we pray Thee, peaceful, pure, and easily to be entreated. And we ask, oh Lord God, that Thy blessing may rest upon them, not only for this day, but during the entire session, so that there may be such legislation enacted as shall be for the good of the great State. Bless Thou this State. Bless Thou all its officers. Bless Thou its Governor. Bless Thou this Legislature assembled. Bless Thou, we pray Thee, all entrusted with the administration of public affairs throughout this commonwealth, and grant that its affairs may be so wisely adjusted and conducted that all may redound to the honor and glory of God. Hear us in our prayers, and give us help according to our need, we ask Thee in the name of Christ, our Lord. Amen.

The Secretary's journal of Friday's proceedings was read, corrected, and approved.

Mr. HUBBARD, from the special committee on Rules, submitted a report.

The report was concurred in.

Mr. HUBBARD from the special committee on the claim of J. W. Cookerly reported in favor of allowing him five days' pay and mileage for his services as Doorkeeper in organizing the Senate.

On motion of Mr. DWIGGINS the report was so amended as to allow D. H. Olive, for acting as Secretary in the organizations, the same compensation and the report was concurred in.

Mr. DWIGGINS presented a claim for $25 for draping the Senate in mourning in memory of John W. Burson as per resolution.

It was referred to the Committee on Claims.

THE STATE PRINTING.

Mr. GREGG offered a resolution requesting the Committee on Printing to investigate and report by bill or otherwise—on or before the 23d inst. upon the propriety of abolishing the office of State Printer.

SENATE RULES.

On motion by Mr. BROWN 200 copies of the rules and orders of the Senate were ordered printed.

On motion by Mr. DWIGGINS the Constitution of the State was included in this order.

Subsequently, on motion by Mr. WILLIAMS, a list of the standing committees of the Senate were included in the order to print the Rules and the Constitution.

NEW PROPOSITIONS.

Bills for acts were introduced, read the first time, and severally passed to the second reading, as follows :

By Mr. HUBBARD, [S. 15.] To authorize cities and towns to negotiate a sale of bonds to procure means to erect and complete school buildings, etc., and authorizing the levy and collection of an additional special school tax for the payment of such bonds, and legalizing contracts heretofore entered into.

By Mr. TAYLOR, [S. 16.] To authorize suits to be brought in the adopted name of a partnership, any judgment rendered to be for the benefit of the partnership, and all partners to be bound thereby.

By Mr. ORR, [S. 17.] To amend the act relating to justices of the peace, and providing that they have jurisdiction to try suits founded on contract or tort in which the amount involved does not exceed $100, and concurrent jurisdiction to an amount not exceeding $500.

By Mr. MILLER, [S. 18.] To repeal the act authorizing the assessment of lands for plank and macadamized road purposes and the act authorizing the construction of such roads.

By Mr. NEFF, [S. 19.] To amend the act relating to divorce, so as to make the causes of divorce adultery, impotence, cruel treatment of either party by the other, habitual drunkenness, the failure of the husband to make reasonable provisions for his family, and the conviction of either party of an infamous crime in foreign courts.

By Mr. ARMSTRONG, [S. 20.] To regulate the sale of real estate owned by husband and wife, providing that in all cases where real estate may be sold by deed of conveyance by husband and wife, and in case where lands may be conveyed or devised to them they shall be tenants in common for the purpose of selling upon execution or other final process and that the interest of the husband in such lands shall be subject to sale upon execution against the same, the same as if he held it in common with any other person.

By Mr. GREGG, [S. 21.] To abolish the office of the State Agent and require the Secretary of State to perform the duties thereof.

By Mr. BEARDSLEY, [S. 22.] To regulate the interest on money, providing that the interest on a judgment or decree for money shall be from the date of signing until the same is satisfied at the rate per cent. agreed upon by the parties in the original contract in which the judgment is entered, not exceeding 10 per cent., and if there was no contract then at the rate of six per cent.

By Mr. BIRD, [S. 23.] To authorize County Commissioners to appropriate money not exceeding $10,000 in any one year to aid in putting or aid in keeping in repair any canal running in or along said county.

By Mr. CAVE, for An Act [S. 24] To require Supervisors of Highways, on the last Saturday of September in each year, to make a report of the names of persons liable to road duty, the amount of commutation money paid, etc.

STANDING COMMITTEES.

The PRESIDENT then announced the standing Committees of the Senate of Indiana for this Extra Session of 1872, viz:

On Elections—Messrs. Sleeth, Collett, Miller, Neff, Fuller, Hall and Dittemore.

On Finance—Messrs. Steele, Beardsley, Friedley, Wadge, Williams, Daugherty and Harney.

On the Judiciary—Messrs. Brown, Daggy, Steele, Gooding, Rosebrugh, Glessner and Dittemore.

On Education—Messrs. Scott, Taylor, Hough, Rhodes, Fuller, Boone and Armstrong.

On Corporations—Messrs. Hubbard, Brown, Gooding, Dwiggins, Armstrong, Carnahan and Bird.

On Roads—Messrs. Miller, Howard, Orr, Friedley, Cave, Bowman and Stroud.

On Benevolent Institutions—Messrs. Thompson, Chapman, Beardsley, Hough, Armstrong, Daugherty and Francisco.

On Agriculture—Messrs. Collett, Beeson, Miller, Orr, Williams, Boone and Bowman.

On Banks—Messrs. Dwiggins, O'Brien, Beardsley, Haworth, Daugherty, Winterbotham and Gregg.

On Manufacturers—Messrs. Beardsley, Howard, Wadge, Bunyan, Beggs, Ringo and Boone.

On Public Printing—Messrs. O'Brien, Sleeth, Beardsley, Hough, Cave, Bird and Dittemore.

On Public Buildings—Messrs. Oliver, Daggy, Scott, Neff, Harney, Winterbotham and Francisco.

On Prisons—Messrs. Wadge, Friedley, Chapman, Hubbard, Dittemore, Bowman and Winterbotham.

On Canals and Internal Improvements—Messrs. Haworth, Sleeth, Bunyan, Howard, Beggs, Armstrong and Carnahan.

On State Library—Messrs. Hough, Chapman, Rhodes, Oliver, Slater, Beggs and Smith.

On Fees and Salaries—Messrs. Rhodes, Steele, Neff, Hubbard, Glessner, Smith and Gregg.

On Claims—Messrs. Neff, Beeson, Orr, O'Brien, Williams, Harney and Carnahan.

On Military Affairs—Messrs. Chapman, O'Brien, Sleeth, Bunyan, Gregg, Fuller and Sarnighausen.

On Phraseology and Arrangement of Bills and Enrolled Bills—Messrs. Collett, Hubbard, Thompson, Sleeth, Hall, Slater and Smith.

On Unfinished Business—Messrs. Bunyan, Howard, Beardsley, Scott, Ringo, Gregg and Stroud.

On Organization of Courts — Messrs. Daggy, Hough, O'Brien, Steele, Dittemore, Rosebrugh and Glessner.

On Expenditures—Messrs. Taylor, Beeson, Friedley, Thompson, Harney, Smith and Armstrong.

On Federal Relations—Messrs. Gooding, Dwiggins, Hubbard, O'Brien, Beggs, Boone and Slater.

On Swamp Lands—Messrs. Chapman, Oliver, Dwiggins, Howard, Winterbotham, Stroud and Carnahan.

On Temperance—Messrs. Beeson, Steele, Rhodes, Wadge, Francisco, Cave and Stroud.

On County and Township Business—Messrs. Orr, Bunyan, Miller, Howard, Beggs, Fuller and Ringo.

On the Rights and Privileges of the Inhabitants of the State—Messrs. Howard, Hough, Gooding, O'Brien, Glessner, Hall and Sarnighausen.

On Reformatory Institutions—Messrs. Beeson, Oliver, Taylor, Scott, Bird, Francisco and Daugherty.

On Emigration and Statistics—Messrs. Haworth, Collett, Neff, Miller, Hall, Cave and Sarnighausen.

On Insurance—Messrs. Daggy, Oliver, Orr, Scott, Williams, Slater and Bowman.

On Railroads—Messrs. Brown, Dwiggins, Sleeth, Gooding, Bird, Rosebrugh and Dittemore.

WABASH AND ERIE CANAL.

Mr. O'BRIEN moved that the joint resolution [H. R. 2.] agreeing to and adopting a joint resolution passed by the last General Assembly, proposing an amendment to the Constitution by adding to the ninth article a section in relation to the debt charged upon the Wabash and Erie Canal, be taken from the table and put upon its passage.

Mr. DAGGY apprehended that the action proposed now would be premature. If this resolution be passed no other reform of the kind can be proposed this session except the calling of a Convention to amend the Constitution. His impression was that this resolution had better be passed over for the time being, until it is decided what is best to do. Whether it is better to call a Constitutional Convention or propose further amendments to the Constitution in this way.

Mr. BROWN made the point that the passage of this resolution, notwithstanding it may be in the very words of the resolution passed at the last session, would not fill the requirements of the Constitution; but the resolution itself, passed two years ago, must be brought from the Secretary of State's office and put upon its passage here. The identical resolution must pass both of these Houses, and have entered upon it the action of respective bodies, for the purpose of authenticating the fact that the identical resolution passed this General Assembly; and for the purpose of ascertaining whether he was right or not, he moved to refer this resolution to the Committee on Judiciary.

Mr. GREGG fully concurred in the opinion expressed by the Senator from Jackson [Mr. Brown] as to what the Constitution requires, and so believing he introduced a resolution the other day calling upon the Secretary of State to furnish the Senate with a certified copy of the joint resolution passed last session. He was inclined to think the original copy would be the proper thing for this General Assembly to pass. This is a matter of too much importance to work at with too much haste. There was too much haste in this matter two years ago, and he was sorry to say that the Secretary's journals are in a bad shape. He favored the motion to refer.

Mr. STEELE preferred the motion to refer, and opposed haste, inasmuch as this matter is of very great importance; perhaps of more importance than anything that will be before us this session.

Mr. BROWN said the reason he was careful about this matter is this, for some

strange and singular reason to him entirely unknown, one of the plainest provisions of the Constitution of the State was disregarded on the part of the Secretary of the Senate and the Clerk of the House of Representatives. Neither of these gentlemen seemed to understand that it was their duty to spread this amendment, with the yeas and nays thereon, upon the journals of each House. This, for a time, was thought to be a great misfortune to the State, but on investigation we find that part of the Constitution was merely advisory. The Supreme Court has decided that the enrolled copy lodged with the Secretary of State, having upon it the signatures of the presiding officers of both Houses, is a higher character of evidence than the journals of either or both Houses, and that sound and sensible decision saves this constitutional amendment, if the State makes no further blunders.

Mr. SLEETH asked what evidence the Senate had that this resolution ever passed the body. The journal of this House doesn't show it. There is not a word on the journal of this House in regard to this resolution.

Mr. O'BRIEN fully concurred in the opinion that the resolution should be passed, and not a substitute for it; therefore, he favored the motion to refer.

Mr. DWIGGINS, being informed that the Secretary of State, in answer to an order adopted the other day, has furnished the Senate with a certified copy of the resolution, moved that it also be referred to the committee.

The motion to refer was agreed to.

WORK FOR COMMITTEES.

The following bills were read the second time and referred to appropriate committees, except as otherwise stated :

No. 1. To repeal charter of the Kankakee Drainage Company.

To the Committee on Corporations.

No. 2. Authorizing the incorporation of banks of discount and deposit.

To the same committee.

No. 3. On the organization and perpetuity of volunteer associations.

To the Committee on the Judiciary.

No. 4. To provide for the collection of taxes on bank stock.

To the Committee on Banks.

No 5. To require railroad companies to issue stock paid for by taxation.

To the Committee on Corporations.

No. 6. To regulate freight and passenger tariffs on railroads.

Laid on the table and 200 copies ordered printed

No. 7. To repeal the act authorizing counties and townships to aid railroad companies by subscriptions to stock or donations.

To the Committee on Railroads.

No. 8. To provide for holding courts in the 25th Common Pleas District.

To the Committee on Organization of Courts.

No. 9. Fixing salaries of Judges.

To the Committee on Fees and Salaries.

No. 10. To authorize the collection of an *ad va'orem* tax on all property subject to State and county taxation, including stock of joint companies.

To the Committee on Corporations.

No. 11. To fix time of holding Circuit Courts in the Twelfth Judicial Circuit.

To a Special Committee composed of Senators Cave, Williams and Carnahan.

No. 12. To give a right of action to any person suffering damages through the act of any intoxicated person.

To the Committee on Temperance.

No. 14. To compel mortgagers to enter satisfaction of mortgage when paid.

To the Committee on the Judiciary.

No. 15. To require railroad companies to maintain their principal office in the State, etc.

To the Committee on the Judiciary.

And then the Senate adjourned till tomorrow morning at ten o'clock.

THE

BREVIER LEGISLATIVE REPORTS

THIRTEENTH VOLUME.

INDIANA LEGISLATURE.

HOUSE OF REPRESENTATIVES.

MONDAY, November 18, 1872.

The House met at two o'clock p. m., persuant to the adjournment last Friday.

STANDING COMMITTEES OF THE HOUSE.

The SPEAKER announced the following standing Committees of the House of Representatives:

On Elections—Messrs. Edwards, Isenhour, Hollingsworth, Martin, Odle, Wilson of Jay and Whitworth.

On Ways and Means—Messrs. Kimball, Branham, Brett, Williard, Tingley, Peed and Gronendyke.

On the Judiciary—Messrs. Walker, Cauthorn, Wilson of Ripley, Woollen, Ogden, Buskirk and Johnson.

On the Organization of the Courts of Justice—Messrs. Wilson of Ripley, Offutt, Cowgill, Shirley, Edwards, Claypool and Glasgow.

On Banks—Messrs. Satterwhite, Brett, Troutman, Crumpacker, Tulley, Riggs and Goble.

On Education—Messrs. Mellett, Given, Billingsley, Glazebrook, Butts, Woollen and Ogden.

On the Affairs of the State Prisons—Messrs. Hardesty, Barrett, Woodard, Cole, Thayer, Coffman and Furnas.

On Swamp Lands—Messrs. Butterworth, Eaton, Wood, Hatch, McConnell, Gregory and Wynn.

On Military Affairs—Messrs. Kirkpatrick, Reno, Cole, Anderson, Goudie, Spellman and Wesner.

On Claims—Messrs. Riggs, Dial, Lee, Hoyer, Hedrick, Shutt and Lenfesty.

On Trust Funds—Messrs. Miller, Baker, Gronendyke, Henderson, Lent, Durham and Hollingsworth.

On Fees and Salaries—Messrs. Woodard, Woollen, Cowgill, Teeter, Broadus, Rudder and Cole.

On the Sinking Fund—Messrs. Branham, Ellsworth, Billingsley, Stanley, Eward, Strange and Cobb.

On the Rights and Privileges of the Inhabitants of the State — Messrs. Hedrick, Shirley, Gifford, Pfrimmer, Clark, Blocher and Rumsey.

On Railroads—Messrs. King, Branham, Bowser, Gronendyke, Isenhour, Kimball and Jones.

On Manufactures and Commerce—Messrs. Thayer, Given, North, Reno, Butterworth, Baker and King.

On County and Township Business—Messrs. Thompson of Elkhart, Claypool, Reeves, Buskirk, Prentiss, Scott and Coffman.

On Agriculture—Messrs. Furnas, Heller, Billingsley, McConnell, Thompson of Spencer, Eaton and Odle.

On Benevolent and Scientific Institutions—Messrs. Branham, Brett, King, Lent, Cauthorn, Tingley and Jones.

On Temperance—Messrs. Butts, Brett, Baxter, Cauthorn, Furnas, Schmuck and Clark.

On Mileage and Accounts—Messrs. Cowgill, Glazebrook, Cobb, Richardson, Mellett, Peed and Butts.

On Corporations—Messrs. Ogden, Richardson, Gifford, Thompson of Elkhart, Shirley, Thayer and Hoyer.

On Canals—Messrs. Lent, Claypool, Cobb, Bowser, Broadus, Anderson and Cole.

On Public Expenditures—Messrs. Johnson, Henderson, Wolflin, Offutt, Wesner, Reno and Eward.

On Federal Relations—Messrs. Lenfesty, Pfrimmer, Wynn, Strange, Troutman, Shutt and Butts.

On the Affairs of the City of Indianapolis—Messrs. Hatch, Goble, Wilson of Jay, Gregory, Scott, Heller and Satterwhite.

On Cities and Towns—Messrs. Gifford, Willard, Riggs, Teter, Miller, Baker and Kirkpatrick.

On Engrossed Bills—Messrs. Broadus, Durham, North, Cline, Glasgow, Crumpacker and Hoyer.

On Roads—Messrs. Reeves, Isenhour, Thompson of Spencer, Martin, Prentiss, Strange and Rumsey.

On Statistics and Emigration—Messrs. Wolflin, Blocher, Lenfesty, Schmuck, Wood, McKinney and Thompson of Elkhart.

On Insurance Companies—Messrs. Wilson, of Ripley, Given, North, Lenfesty, Jones, Wesner and Barrett.

On Printing—Messrs. Billingsley, Peed, Wilson of Ripley, Heller, Walker, Shutt and Mellett.

On Reformatory Institutions—Messrs. Baxter, Furnas, Rumsey, Clark, Martin, McConnell and Dial.

On Drains and Dykes—Messrs. Wood, Eaton, Prentiss, Tulley, Gregory, Troutman and Scott,

JOINT STANDING COMMITTEES ON THE PART OF THE HOUSE OF REPRESENTATIVES

On Public Library—Messrs. Lee, Smith, and Hardesty.

On Public Buildings—Messrs. Branham, Brett, and Kimball.

On Canal Fund—Messrs. Goudie, Claypool and Reeves.

On Enrolled Bills—Messrs. Cobb, Stanley, Butterworth, Tulley, Scott and Bowser.

GOVERNOR'S MESSAGE.

On motion of Mr. FURNAS, the special order of last Thursday, that the House go into a Committee of the Whole this day at 3 o'clock, p. m., to consider the recommendations of the Governor's Message, was changed from 3 o'clock to the present time. Whereupon the House resolved itself into a Committee of the Whole—Mr. Branham in the Chair.

Mr. GIFFORD moved to take up and postpone the further consideration of the Governor's Message till to-morrow, which motion was ruled out of order.

On motion of Mr. EDWARDS of Vigo, the Governor's Message, referred to the Committee of the Whole, was taken up.

Mr. KIMBALL submitted a resolution referring the different sections of the Message to appropriate committees, as follows:

RESOLVED, That so much of the Governor's message as relates to the completion of unfinished business of one session by another; to the Garrett suit against the Wabash and Erie Canal; to the Constitutional Convention, and to the addition of another Judge to the Supreme Court, be referred to the Committee on the Judiciary.

RESOLVED, That so much as relates to the act regulating fees and salaries, and to the salaries of the Governor and Judges of the Supreme Court, be referred to the Committee on Fees and Salaries.

RESOLVED, That so much as relates to additional provision for the insane; to the institution for the education of the blind, and to the Soldiers' Home, be referred to the Committee on Benevolent and Scientific Institutions.

RESOLVED, That so much as relates to House of Refuge and to the Indiana Reformatory Institute for men and girls, be referred to the Committee on Reformatory Institutions.

RESOLVED, That so much as relates to the State Prisons, be referred to the Committee on that subject.

RESOLVED, That so much as relates to the State Normal School be referred to the Committee on Education.

RESOLVED, That so much as relates to the Treaty of Washington be referred to the Committee on Federal Relations.

RESOLVED, That so much as relates to the Constitutional amendment in relation to the canal debt, the same having been provided for by the House by the passage of a joint resolution, no recomendation is neccessary.

RESOLVED, That so much as relates to the late Norman Eddy be referred to a select committee of five.

RESOLVED, That so much as relates to Tippecanoe Battle Ground be referred to a select committee of three.

RESOLVED, That so much as relates to the soldiers' monument be referred to a select committee of one from each Congressional District.

The resolutions were adopted.

On the motion of Mr. HARDESTY, which was adopted, the Committee rose, and the Chairman was instructed to report and recommended the adoption of Mr. Kimball's resolutions, and ask that the committee be discharged from further consideration of the subject.

The CHAIRMAN [Mr. Branham] having submitted his report to the House according to the instructions, it was adopted.

Mr. WALKER, owing to the absence of a number of members, moved an adjournment.

The motion prevailed, and the House adjourned.

THE

BREVIER LEGISLATIVE REPORTS

THIRTEENTH VOLUME.

INDIANA LEGISLATURE.

IN SENATE.

TUESDAY, November 19, 1872.

The Senate met at ten o'clock, a. m., pursuant to adjournment, President Friedley in the chair.

The Secretary's journal of yesterday's proceedings was read, corrected and approved.

On motion of Mr. WILLIAMS the vote by which bill [S. 8] was referred to the Committee on Organization of Courts was reconsidered, and the bill was referred to a special committee consisting of Messrs. Dwiggins, Miller and Smith.

COMMITTEE CLERKS.

Mr. ORR offered a resolution directing the doorkeeper to provide suitable rooms for the use of the committees of the Senate, and authorizing each committee to employ a clerk when in the judgment of such committee one is required.

Mr. WILLIAMS moved to amend by making the employment of clerks rest in the discretion of the Senate instead of the committee.

Mr. ORR moved to lay the amendment on the table, but the Chair ruled that that would carry the resolution with it, and the motion was withdrawn.

Mr. DITTEMORE moved to lay the resolution on the table.

The motion was agreed to by yeas, 26; nays 18.

A message was received from the House of Representatives announcing that it had adopted joint rules for conducting business, and appointed joint standing committees on the part of the House.

RESOLUTIONS.

Mr. WADGE offered a resolution extending an invitation to Vice President Colfax to a seat on the floor of the Senate during his adjourn in this city, and to appoint a committee of three to inform him of the action of the Senate.

The resolution was adopted by consent, and the PRESIDENT appointed Messrs. Wadge, Thompson and Daugherty as such committee.

Mr. DAUGHERTY offered a resolution requesting the Auditor of State to lay before the Senate as soon as practicable, in the form of advance sheets, so much of his annual report as relates to the subject of State printing.

It was adopted.

Mr. DITTEMORE offered a resolution that the President appoint a committee of three on mileage and accounts of members of the Senate.

It was adopted, and the Chair appointed Messrs. Dittemore, Chapman and O'Brien as such committee.

On motion of Mr. BROWN the Committee on the Judiciary was authorized to employ a clerk and janitor.

NEW PROPOSITIONS.

Bills for acts were introduced, read the first time and severally passed to the second reading, unless otherwise stated, as follows:

By Mr. O'BRIEN, [S. 25] to repeal an act to regulate the fees and salaries and prescribe the duties of certain officers, approved February 21, 1871, and revive the acts and parts of acts repealed thereby. [To revive the old fee and salary act.]

By Mr. NEFF, [S. 26] to amend section eighteen of the act of May 14, 1852, relating to descents and apportionment of real estate, so as to provide that any widow possessed of real estate by a previous marriage, who may marry a subsequent time, may, with the assent of her husband, alienate said real estate, and the proceeds therefrom shall be her separate property, to be reinvested or loaned out in her own name, with the right to sue for and collect the same without joining her husband in the suit, and if she shall die during her marriage, the property shall go to the children by the marriage in virtue of which such real estate came to her, if any there be.

By Mr. GLESSNER, [S. 27] a bill for an act to legalize certain acts of corporations, organized under the plank and gravel road law of May 12, 1852, and acts supplemental thereto. To authorize boards of directors of plank, macadamized or gravel road companies to amend the articles of association by inserting the amount of capital stock or any other material requirements inadvertently omitted, this provision to apply only to associations that had completed their roads prior to January 1, 1871.

By Mr. ORR, [S. 28] a bill for an act to amend section one of the act providing for the completion of any business of a regular session of the General Assembly by the succeeding special session. To authorize the unfinished business of any regular or special session of the General Assembly to be disposed of at the next succeeding regular or special session, as it might have been if originating therein.

On motion by Mr. ORR, the Constitutional restriction was suspended—yeas 39; nays 1; the bill was read by the title only and referred to the appropriate committee.

By Mr. THOMPSON a bill [S. 29] for an act to provide for the enlargement of the State House grounds by vacating Market street and the alley north of Market street, between Tennessee and Mississippi streets in the city of Indianapolis, and for acquiring the property on the corner of the alley and Tennessee street, not already owned by the State; as a site for a new State House. Providing for the purchase or condemnation of the ground bounded by Ohio, Tennessee, the first alley north of Market and Mississippi streets, with a view to connect the ground now owned by the State to obtain a suitable site for a new State House. Also, providing that when the State has acquired the title thereof, the Attorney General shall take measures to procure the vacation by the Common Council of Indianapolis of that part of Market street and of said alley situated between Tennessee and Mississippi streets.

It was read the first time and on Mr. THOMPSON'S motion one hundred copies ordered to be printed.

By Mr. O'BRIEN [S. 30] to reorganize the Supreme Court and divide the State into five districts. It provides that the Supreme Court shall consist of five Judges, whose salary shall be $5,000 each per annum, and that the Judicial districts shall consist of the following counties:

First—Wabash, Huntington, Allen, Whitley, DeKalb, Noble, Lagrange, Steuben, Kosciusko, Elkhart, Fulton, Marshall, St. Joseph, Starke, Laporte, Porter and Lake.

Second—Scott, Jefferson, Switzerland, Ohio, Dearborn, Ripley, Jennings, Floyd, Franklin, Clarke, Fayette, Union, Wayne, Henry, Randolph, Delaware, Jay, Blackford, Wells and Adams.

Third—Monroe, Greene, Sullivan, Knox, Daviess, Lawrence, Martin, Gibson, Pike, Dubois, Orange, Washington, Brown, Jackson, Bartholomew, Harrison, Crawford, Perry, Spencer, Warrick, Vanderburg and Posey.

Fourth—Tippecanoe, Benton, Newton, Jasper, White, Pulaski, Carroll, Cass, Clinton, Warren, Fountain, Montgomery, Vermillion, Parke, Putnam, Vigo, Clay and Owen.

Fifth—Rush, Decatur, Shelby, Johnson, Morgan, Hancock, Marion, Hendricks, Boone, Hamilton, Madison, Tipton, Howard, Grant and Miami.

A Judge shall be appointed by the Governor for the Fifth District, who shall hold his office until the next general election.

Mr. O'BRIEN made an ineffectual motion that the Constitutional restriction be dispepsed with—yeas 15, nays 30—so that the bill may be read by title and referred to the appropriate Committee.

By Mr. GLESSNER, a bill [S. 31] for an act supplemental to the plank road assessment laws; approved March 11, 1867, and May 14, 1869. To provide that where tracts of land and city lots subject to assessment under the act authorizing the incorporation of plank, macadamized and gravel road companies have been inadvertently omitted by the assessor, the omission may be supplied, and assessments

heretofore made shall not be considered invalid by reason of such omission.

By Mr. DWIGGINS, [S. 32] to legalize the sale of seminary lands in Jasper county to Marion L. Spitler and Margaret Stackhouse.

By Mr. BEARDSLEY, [S. 33] to amend the act incorporating the Fire and Marine Insurance Company, approved February 13, 1841, changing the name to the "Indiana Insurance Company," etc.

By Mr. HOUGH, a bill [S. 34] to amend sections 90 and 103 of the general practice act of June 17, 1852, in relation to witnesses and pleadings and evidence in court trials. It provides that the following persons shall be competent witnesses: 1. Persons who are competent to testify in civil actions. 2. The party injured. 3. Accomplices, when they consent to testify. 4. The defendant in his own behalf.

The PRESIDENT laid before the Senate a message from the Governor announcing that he had sent to the House the annual report of the Trustees of the Institute for the Education of the Blind.

On motion of Mr. HOUGH 100 copies were ordered printed.

On motion of Mr. THOMPSON, the Committee on Benevolent Institutions was authorized to employ a clerk.

Mr. STEELE introduced a resolution to pay George T. B. Carr $175 for his services as clerk of the Committee on Elections and of the Committee on Claims at the last session.

The resolution provoked considerable discussion, in the course of which it was said that Mr. Carr received $5 a day during the entire session for service on another committee.

The resolution was finally referred to the Committee on Claims.

The Senate adjourned until two o'clock, p. m.

AFTERNOON SESSION.

The Senate met at two o'clock, pursuant to adjournment.

NEW PROPOSITIONS.

Bills for acts were introduced, read the first time, and severally passed to the second reading, to wit:

By Mr. GREGG, a bill [S. 35] to amend sections 17 and 29 of the act of March 14, 1867, incorporating cities so as to confer upon the Mayor all the powers of Justices of the Peace, etc.

Mr. GREGG moved, for the sake of obtaining a construction of a Senate rule, that the regular order of business be suspended, and the bill be read the second time by its title for reference.

After some discussion, the PRESIDENT declared the motion out of order.

By Mr. NEFF, [S. 36] to amend the bastardy act of May 6, 1852, providing that when any woman who has been delivered of or is pregnant with a bastard child, shall make complaint in writing before the Clerk of the Circuit or Common Pleas Court, charging any person with being the father of such child, the clerk of the court shall cause such person to be arrested, who shall give bond in not less than $300 nor more than $1000 for his appearance. The mother of the child, being of sound mind, shall be a competent witness. The death of the mother shall not abate such suit if the child is living. The mother may file an admission pending judgment of satisfactory provision for the child. The prosecution must be commenced within two years of the birth of the child. The death of the child shall not abate the suit. In case of the death of the putative father the action may proceed against his personal representative.

By Mr. CAVE, a bill [S. 37] for an act to amend section forty-seven of the highway law of June 17, 1852, to provide that viewers and reviewers of highways shall receive two dollars a day for their services.

By Mr. GOODING, a bill [S. 38] supplemental to an act approved February 2, 1865, referring to the sale of the Governor's residence and to provide a residence for the Governor; to approve payments made to the Governor in lieu of a residence, not exceeding $5,000 a year and to appoint the Attorney General as one of the commissioners to sell certain real estate to provide for the residence of the Governor and make him an allowance in lieu thereof, in the place of Calvin Fletcher, deceased.

By Mr. BOONE, [S. 39] to amend an act to authorize the construction of levees dykes and drains, and the reclamation of wet and overflowed lands, approved May 22, 1869, and repealing the thirteenth section thereof.

By Mr. THOMPSON, a bill [S. 40] for an act to amend section two of the Voluntary Association act of February 12, 1853. To amend the act relating to the organization of volunteer associations, providing that such organizations may be formed for the following purposes: 1. To establish and maintain horticultural, literary or scientific associations. 2. To organize military or fire companies. 3. To provide suitable grounds for public walks and parks.

and to ornament the same with shade trees and shrubbery. 4. To plant and cultivate shade trees along the streets of towns and cities. 5. To organize Odd Fellow lodges, subordinate to the Grand Lodges, and also Divisions of the Sons of Temperance, or other charitable associations or orders. 6. To erect and maintain suitable buildings for public meetings. 7. To import horses, cattle, sheep, hogs and other animals for agricultural purposes. 8. To erect and maintain public ferries. 9. To organize safe deposit and loan companies.

By Mr. SLATER, a bill [S. 41] for an act to amend section five of the liquor law of March 5, 1859. To require applicants for license to sell spirituous and vinous liquors to pay $50 for a license for one year, the same to be added to the school fund.

By Mr. O'BRIEN, a bill [S. 42] for an act to repeal section 15 of the promissory note law of March 11, 1861, and the real property execution act approved June 4, 1861.

By Mr. BEARDSLEY, a bill [S. 43] for an act to authorize the construction of levees, dykes and drains, and repealing all former laws in conflict therewith.

Mr. GLESSNER offered the following resolution :

WHEREAS, It is evident that the Doorkeeper in executing the order of the Senate directing the Senate chamber to be appropriately draped in memory of the late John W. Burson, deceased, has, in the great profusion of drapery, far exceeded what was contemplated by the Senate, therefore,

RESOLVED, That a committee of three be appointed to determine the amount of drapery that should be used, still leaving sufficient to appropriately carry out the spirit of the resolution authorizing the same and report the result of their deliberations to-morrow.

On motion of Mr. STEELE, the resolution was laid on the table.

ENTRANCE OF VICE-PRESIDENT COLFAX.

The committee appointed to invite Vice-President Colfax to a seat on the floor of the Senate having now arrived with the Vice-President in custody, Mr. WADGE announced the fact and moved a recess of ten minutes.

The motion prevailed, and PRESIDENT FRIEDLEY said :

GENTLEMEN OF THE SENATE : I have the pleasure of presenting to you one of Indiana's most distinguished citizens, the Hon. Schuyler Colfax, Vice-President of the United States.

Mr. Colfax was received with applause and calls for a speech, to which he responded.

Mr. Colfax commenced by referring to his first association with public affairs nearly thirty years ago in this very chamber, as the reporter of the proceedings of the Senate for the Indianapolis *Journal* in the year 1843. What a change there has been, not only in our country, but in our State, since then! It has been said that the people of every county in this State can now take their breakfast at home and be at their State capital the same day. Then, the journeying was long and tedious, the roads almost impassible in the winter time. When he first came to the Capital it occupied some five days to travel from South Bend. He remembered at that time listening to a speech of the ex-Governor in relation to the future of Indiana, who said that although there were no railroads then in the State of Indiana the time would come within the lives of some of those who listened to him when the Capital of the State would be like the hub of a wheel, the railroads diverging from it in every direction like the spokes diverging from the hub. The prediction was received with incredulity, but yet to-day it is more than realized.

I need not speak of the history of Indiana. It is one of which all of us may justly be proud. The achievements of her sons on the land and on the sea, in war and in peace—of her people in the development of her grand resources—all tend to add to the honor and glory of this State, of whose citizenship all of us are so proud. After alluding briefly to the possibilities of the future of Indiana, Mr. Colfax proceeded as follows:

The Senators and Representatives of a great State like ours have a weight of responsibility resting upon them, not only in regard to the political principles which they represent by the votes of their constituents but also in their legislation for the men, women and children, the rising generation who are to govern this State in years to come. To so act that the Legislature shall promote always the public welfare, that it shall rise above all these transient political questions, that it shall endeavor to make our State nobler among her sisters, truer to the right, is the duty of its Legislators. And we have rules laid down, which, if they are followed, we shall not err in regard to the legislation for which we are responsible. You can find them in the Old Testament and in the New Testament. They are written by the finger of inspiration itself. In the very thunders of Sinai, He, who is the ruler of the world, and who spoke to all coming legislators, laid down the law that should govern them: "There shall be but one law," said God to Moses, "for him that is born among you and for the stranger."

Not only to the Jews who listened to it, but for all legislators in all times and countries this is a safe and wise rule. And there is another touchstone in the remarkable Sermon on the Mount, which was not only for legislators but for individuals the safest and the wisest rule, "Whatsoever ye would that others should do unto you, do ye even so unto them."

Tested by these two touchstones you cannot err. Whatever is in accordance with these principles will be right, and the State that is thus governed will have reason not only to be proud of its history but to be thankful to those who, chosen from its midst, have enacted laws based upon principles like these. Thus, inspired by such rules as these, your legislation shall stand on the statute book of this State to your honor as well as the honor of the State for which you speak and act and vote, and you may be sure that whatever party may be in the ascendant, however parties may change, or majorities may change, if your legislation is based upon these enduring, immutable principles, the shadow shall not go backward on the dial of human progress that is to mark the future glory of the history of our State. [Great applause.]

The Senate then adjourned until to-morrow at ten o'clock.

THE

BREVIER LEGISLATIVE REPORTS

THIRTEENTH VOLUME.

INDIANA LEGISLATURE.

HOUSE OF REPRESENTATIVES.

TUESDAY, November 19, 1872.

The House met at nine o'clock. The Speaker directed the Clerk to read the journal of yesterday, which proceeded, and the same was approved by the House.

CHAPLAIN SERVICE.

Mr. CLARK, from the Select Committee on Chaplain, reported that the clergy of the city had signified their readiness to officiate at the opening of the House. The report was concurred in.

EMPLOYES.

Mr. WALKER, from the Select Committee on Employes, submitted a report which was concurred in.

It announces the following appointments:

PAGES.

By the Speaker—Charles Burnett, in attendance upon the Speaker; Eddy Mason, ——Cobb, ——Munson, ——Southard, floor pages.

By the Principal Clerk—Charles Lambert.

CLERKS.

By the Principal Clerk—John L. Rupe, Reading Clerk; J. C. McCormick, Registry Clerk; John C. Elber, File Clerk; John M. Commons, Stephen Metcalf, Eugene Sullivan, Enrolling Clerks; Granville S. Wright, Colonel W. H. Snodgrass, Miss E. Pettijohn, D. W. Rowland, Engrossing Clerks.

By the Assistant Clerk—Wm. S. Bartley, Minute Clerk; Alexander Shepherd and Daniel M. Ransdell, Journal Clerks; W. H. Brown, George O. Henry, L. D. Wilson, John E. Pitner, Copying Clerks.

ASSISTANT DOOR-KEEPERS, ETC.

By the door-keeper—W. H. H. Graham, assistant door-keeper; Frank M. Busby, east door; J. McLain, west door; G. M. Adams, cloak room; E. P. Beauchamp, second cloak room; J. H. Edwards, postmaster; W. D. Hamilton, assistant postmaster, Fisk Lofler, mail carrier; Frank Matlock, first paper folder; Lewis Mason, second paper folder; W. H. Freeman, door-keeper of committee room; Jesse Green, sweeper; James Lockhart, first fireman; Wm. Hutchings, second fireman; Henry Baily, water carrier; H. H. Porter, care of water closet; Isaac H. Johnson, spittoon cleaner; Ernest Cole, door-keeper of Chief Clerk's room.

MERWIN, MCDONALD & LONG.

Mr. WALKER, from the special Committee on Claims, reported in favor of allowing the claims of Messrs. Merwin, McDonald & Long, for services in organizing the House. Report concurred in.

MERWIN'S PROPOSITION.

Mr. WALKER, from the special Committee on Employes, reported adversely to the proposition of Messrs. Wm. M. Merwin and Henry C. Painter to perform the duties of postmaster of the House. The report was concurred in.

INTERNAL IMPROVEMENT BONDS.

Mr. CAUTHORN submitted the following, which was adopted:

WHEREAS, His Excellency, the Governor, in his message delivered before the joint convention of the two Houses on Thursday last, calls the attention of the General Assembly to the unsurrendered bonds issued for internal improvement purposes, now held by John W. Garrett, the payment of which is now subject to be enforced by legal proceedings now pending in the Cass County Circuit Court, and also recommends immediate action to be taken in the premises by this General Assembly; therefore,

RESOLVED, That His Excellency, the Governor, is hereby respectfully requested at his earliest convenience, to inform this House under what authority of the State of Indiana said bonds so held by Garrett were issued; the date of the act authorizing their issue; the amount of the principal, interest and cost which the Treasury of the State will have to furnish in case of their payment by the State, according to the recommendations of His Excellency.

RESOLVED, That His Excellency the Governor is also requested at the same time to inform this House under what authority of the State of Indiana the bonds held by William H. Beers and others, whose payment was subject to be enforced by suit in the Carroll County Circuit Court some ten years since, were issued, the date of the act authorizing their issue, the amount of said bonds together with interest and cost, and what was the final issue of said legal proceedings, subsequent to the decision of the Supreme Court of the United States, reported in 2 Black's Supreme Court Reports, and whether said bonds are paid, and, if so, who paid them; and what amount the Trustees of the Wabash and Erie Canal were compelled to disburse out of their trust fund in consequence of said legislation.

RESOLVED, That His Excellency is also respectfully requested to give his opinion whether, if the State, out of abundant precaution and with accustomed generosity, ex grata, make provision for the payment of the Garrett bonds, as recommended by His Excellency, the State will ever in future be threatened or harrassed on account of unsurrendered internal improvement bonds by any other person or persons, or by any corporation, trust or other source whatever, and whether such payment by the State can be construed into a breach of plighted faith on the part of the State by reason of the latter proviso of section eight, of an act approved January 27, 1847, being an act supplemental to an act commonly called the Butler Bill.

Mr. SHIRLEY objected to the promiscuous submission of propositions, and demanded the enforcement of the rule regulating the same for the morning hour.

NEW PROPOSITIONS.

The SPEAKER recognized the demand, and directed the Clerk to call the House by counties and Representative Districts for the introduction of bills, the submission of resolution, etc.

WILLIAM B. WALTERS.

Mr. HELLER submitted a resolution for an order (which was adopted) directing the Committee on Claims to examine the records of the last session of the General Assembly and report the facts in the contest of William B. Walters against R. L. Taylor, for the seat of the latter as a Representative for the county of Allen in the 47th General Assembly of Indiana, and whether Walters shall receive the customary remuneration.

He also submitted a resolution for an order (which was adopted) requesting the Committee of Judiciary to draft a bill to amend the corporation drainage law, and report without delay.

NEW CAPITOL.

Mr HELLER also presented a preamble and resolution for an order for a special committee of one from each Congressional District, to consider the propriety of a new capitol building, and report during the present session.

He also introduced a bill [H. R. 11] for an act to amend sections 62, 63, 65, 66 of the act to repeal all general laws now in force for the incorporation of cities, etc., approved March 14, 1867, and declaring an emergency.

He also introduced a bill [H. R. 12] to exempt two months' wages or salary from garnishee or foreign attachment, excepting cases wherein fraud is alleged and supported by oath.

NEW PROPOSITIONS.

Mr. ELLSWORTH, a bill [H. R. 13] to repeal section one of the act prescribing the duties and fixing the compensation of State agent, and authorizing the Secretary of State to perform his duties, approved June 17, 1867, and amending section four thereof.

Mr. GOUDIE, a bill [H. R. 14] to amend sections five and seven of the act to amend section two of the act in relation to certificates of resignation of officers, approved May, 1852.

Mr. GIVEN, a bill [H. R. 15] to amend section 70 of the act providing for the election and qualifications of Justice of the Peace, and prescribing their powers and duties in civil causes, approved June 6, 1852.

Mr. LENFESTY, a bill [H. R. 16] to regulate and license the sale of spiritous, vinous, malt and other intoxicating liquors, to repeal former laws on that subject and prescribe penalties, and prevent adulteration. [Makes the license fee $500, and the party selling and the person owning the property where the same is sold jointly liable for any injury sustained by reason of intoxication of any person.] Referred to the Committee on Temperance.

Mr. THOMPSON of Elkhart, a bill [H. R. 17] to divide the State into Congressional Districts, as follows:

First District—To be composed of the counties of Posey, Vanderburg, Gibson, Knox, Sullivan and Clay.

Second District—Crawford, Perry, Spencer, Dubois, Martin, Green, Daviess, Pike and Warrick.

Third District—Jackson, Clark, Washington, Floyd, Harrison, Lawrence and Orange.

Fourth District—Jennings, Brown, Bartholomew, Johnson, Monroe, Morgan, Putnam and Owen.

Fifth District—Franklin, Decatur, Dearborn, Ohio, Switzerland, Ripley, Scott and Jefferson.

Sixth District—Hancock, Henry, Wayne, Union, Fayette, Rush and Shelby.

Seventh District—Marion, Boone and Hendricks.

Eighth District—Vigo, Parke, Fountain, Vermillion and Montgomery.

Ninth District—Cass, Miami, Carroll, Tippecanoe, Howard and Warren.

Tenth District—St. Joseph, Laporte, Porter, Lake, Starke, Newton, Jasper, Fulton, Benton, White and Pulaski.

Eleventh District—Elkhart, Kosciusko, Lagrange, Noble, Steuben, DeKalb and Marshall.

Twelfth District—Allen, Adams, Wells, Blackford, Jay, Randolph and Delaware.

Thirteenth District—Huntington, Whitley, Wabash, Tipton, Grant, Madison and Hamilton.

Mr. ISENHOUR, a bill [H. R. 18] to amend the third section of the act in relation to county treasurers, approved June 4, 1852.

Mr. BUSKIRK, a bill [H. R. 19] to enable husband and wife, or either, to be a witness for or against each other in civil causes. A bill [H. R. 20] for an act concerning contracts wherein the obligors agree to pay plaintiff's attorney fees if sued on. Referred to the Judiciary Committee.

Mr. PFRIMMER, a bill [H. R. 21] to amend the seventh section of the act regulating the granting of divorces, nulification of marriages, and the decrees and orders of court incident thereto; approved May 13, 1852.

Mr. BRANHAM, a bill [H. R. 22] to amend the first section and title of the act of March 4, 1865, providing for the completion of the unfinished business of any session of the General Assembly by the succeeding session; and to amend the title thereof so as to read: "To provide for the completion of the unfinished business of one session of the General Assembly by the succeeding session of the same General Assembly."

Mr. BRANHAM. This bill provides merely for the transmission of the business of this extra session to the regular session; and on his motion the rules and constitutional provision were suspended—yeas, 94; nays, none—and the bill was read the first time and the second time by title, and ordered to the third reading.

Mr. WOOLLEN, a bill [H. R. 23] to amend section 7 of the act providing for the granting of divorces, etc., approved May 15, 1852. Judiciary Committee. A bill [H. R. 24] to provide designated depositories of the public funds of the State in the several counties, and to provide penalties for the enforcement thereof. [It provides for the deposit of the funds of the State in one or more banks in the city of Indianapolis, to be designated by the Governor and Auditor and Treasurer of State, and for the designation, by county commissioners, of one or more banks within their respective counties wherein the funds of such counties shall be deposited. It is provided that interest on such deposited funds shall be accounted for semi-annually and the account thereof kept separate from that of the principal.] Trust Fund Committee.

Mr. WILSON of Ripley, a bill [H. R. 25] fixing the salaries of Governor, Judges of the Supreme Court, the Circuit Courts, the Courts of Common Pleas, and the District Attorneys. [Governor, $8,000; Supreme Court Judges, $4,000; Circuit Judges, $3,000; Common Pleas Judges, $2,500; District Attorneys, $500.] Committee on Fees and Salaries. A bill [H. R. 26] to amend section 9 of the act providing for the election and qualifications of Justices of the Peace, approved June 9, 1852. [The jurisdiction of Justices shall be co-extensive with their respective counties.] A bill [H. R. 27] to amend an act concerning interest on judgments.

Mr. WESNER, a bill [H. R. 28] defining and extending the jurisdiction of the Courts of Common Pleas in civil causes. Judiciary Committee.

Mr. SHIRLEY, a bill [H. R. 29] to amend sections twenty and twenty-seven of the act regulating fees and salaries and the duties of certain officers therein named, prescribing penalties, etc.; approved February 21, 1871; Committee on Fees and Salaries. A bill [H. R. 30] to amend section 445 of the general practice act of June 18, 1852, [Amendment—No property shall be sold on execution for less than two-thirds the valuation; provided the property duly appraised shall fail to sell for two-thirds, then it may be sold thereafter for any sum not exceeding one-half the appraised value.] Judiciary Committee. A bill [H. R. 31] to regulate the public printing. [To be let to the lowest competent bidder—the Governor,

Secretary and Treasurer of the State to superintend the matter of the letting.] Printing Committee.

COMPLIMENTARY TO THE GOVERNOR.

Mr CAUTHORN submitted the following, which was adopted:

RESOLVED, That we heard with great pleasure the able and exhaustive message delivered in the presence of the two houses of this General Assembly, on Thursday, by His Excellency, Conrad Baker; and whilst there may not be perfect and entire unanimity upon all the recommendations therein contained, yet it commends itself to the judgment of this House as an able and reliable State paper

RESOLVED, That the allusion made by His Excellency to Norman Eddy, late Secretary of State for Indiana, does credit to his past reputation as a Christian statesman, and meets with a hearty response and approval from this House; and so beautifully and feelingly is the allusion made that we are at a loss whether to admire more the sentiments expressed, or the emotional manner in which they found expression.

RESOLVED, That having experienced, during his administration, the disadvantages resulting from the parsimonious salary meted out to him, we appreciate more fully the unselfish spirit with which he endeavors to shield his successors in office, immediate and remote, from like impositions.

NEW PROPOSITIONS.

Mr. WOOD, a bill [H. R. 32] to prescribe the time of holding the Common Pleas in the Sixteenth District, and repeal all laws in conflict therewith. Referred to Messrs Crumpacker, Glazebrook and Hatch. A bill [H. R. 33] appropriating $75,000 to defray the expenses of the special session of 1872 of the General Assembly of the State of Indiana. It was read the first time and, under a suspension of the rules, it was read the second time by title, considered as engrossed, and finally passed the House. —Yeas, 94; nays, 0.

Mr. EWARD submitted a resolution for an order that the Secretary of State furnish each member of the House with a copy of the laws, House journals and BREVIER REPORTS of the regular session of 1871. Mr. SHIRLEY proposed to strike out the BREVIER REPORTS, which was rejected. The resolution was adopted.

Mr. EWARD submitted a joint resolution for instructing our Senators and requesting our Representatives in Congress to secure the passage of a law to equalize the bounties of soldiers and seamen in the War of the Rebellion; [the allowance to honorably discharged soldiers, sailors and marines who served in the War of the Rebellion, of a bounty equal to eight and one-third dollars for each month of service after deducting all bounties heretofore paid.]

Which was adopted on the part of the House.

Mr. HARDESTY, a bill [H. R. 34] to provide the number of petit jurors necessary to find a verdict in all civil and criminal causes in the State. [It provides that in all civil cases eight jurors shall be competent to find a verdict; in criminal cases below a felony, a like number of jurors shall find a verdict; in criminal cases below the grade of a capital crime, nine jurors shall be competent to find a verdict of conviction or acquittal, and in all cases involving a trial for a capital offense, the voice of the entire jury shall be necessary to the finding of a verdict. In all cases where a verdict is found by a less number than the entire jury, the foreman shall sign the same, whether assenting or dissenting thereto.]

Referred to the Judiciary Committee.

Mr. BILLINGSLEY. A resolution that the Hon. Schuyler Colfax, a distinguished citizen and Vice President of the United States, who is now on a visit at the Capital, be invited to occupy a seat within the bar of the House during his stay.

Mr. JOHNSON, a bill [H. R. 35] to amend the 90th and 103d sections of the practice and procedure act.

Mr. KIMBALL, a bill [H. R. 36] to amend sections one, six and 16 of the act to incorporate the Franklin Insurance Company, approved February 13, 1851. Committee on Insurance Companies.

Mr. KING, a bill [H. R. 37] to authorize the appropriation of money out of the State Treasury for the use of the Indiana University to pay a debt of the Trustees thereof, incurred by borrowing money to defray the current expenses of that institution for the years 1870 and 1871 [$8,000]. A bill [H. R. 38] to amend the act to incorporate the Indiana Fire and Marine Insurance Company, approved February 13, 1851. Committee on Insurance Companies. A bill [H. R. 39] to amend section 2 of the act concerning voluntary associations, approved February 12, 1855.

Mr. HENDERSON, a bill [H. R. 40] to repeal the act to provide for the redemption of real property, or any interest therein, sold on execution or other order of sale, approved June 4, 1861. A bill [H. R. 41] to repeal the Corporation Drainage act of May 22, 1869, and the act supplemental thereto, approved February 23, 1871. Committee on Swamp Lands: And he presented petitions for these objects numerously signed, which were read and referred to the same committee.

Mr. WOODARD, a bill [H. R. 42] to repeal the act of May 12, 1869, authorizing aid in the construction of railroads by counties and townships taking stock therein. Committee on Railroads.

Mr. SCHMUCK, a bill [H. R. 43] to repeal the act to provide for the redemption of real property, or any interest therein, sold on execution, etc., approved June 4, 1861.

Mr. PEED, a bill [H. R. 44] to repeal the act to discourage the keeping of useless and sheep-killing dogs; also the dog law of March 11, 1861. [This act is not to be construed so as to affect the act of 1852 for the protection of sheep, and the supplemental act of March 2, 1865.]

The SPEAKER laid before the House a communication from the Governor transmitting the annual report for the Trustees and Superintendent of the Institution for the Education of the Blind, requesting that the necessary resolutions for printing the same may be passed at as early a day as practicable.

On motion of Mr. WOOLLEN, it was referred to the Committee on Scientific and Benevolent Institutions.

The SPEAKER laid before the House a Communication from the Auditor of State, responding to Mr. Hardesty's resolution, for information as to the cost of the BREVIER LEGISLATIVE REPORTS. The Auditor shows that the following sums have been audited and paid on this account, including Binding:

In 1861	$ 2,750 50
In 1865	2,268 60
In 1867	4,760 00
In 1869	10,375 32
Total in ten years	$20,154 42

He also reports bills on account not audited for the reason that no appropriation was made by the last General Assembly on that account.

On motion of Mr. HARDESTY the Communication was referred to a special Committee consisting of Messrs. Hardesty, Richardson and Thayer.

The SPEAKER also presented a Communication from the Governor, transmitting the report of the Superintendent of the Soldiers' Home.

On motion of Mr. CAUTHORN it was referred to the Committee on Benevolent Institutions.

Mr. SMITH. A resolution for extending the powers of married women to make contracts. A bill [H. R. 45] to amend section one of the act fixing the per diem and mileage of members of the General Assembly, Secretaries, Clerks and Doorkeepers, and their employes, approved December 20, 1865. [$4 per diem.] Committee on Fees and Salaries.

Mr. COLE. A bill [H. R. 46] to repeal the act providing for the protection of fish, etc., approved February 22, 1871.

Mr. RIGGS. A bill [H. R. 47] to empower the Board of Trustees of any incorporated town in this State to appoint a town attorney, prescribing his duties and compensations.

Mr. BUTTS. A resolution that the Committee on the Judiciary inquire what further legislation is necessary to secure a just and equitable adjustment of taxable property in this State, as required by the Constitution of the State, and report by bill or otherwise. Adopted. A bill [H. R. 48] to provide against animals running at large, and for the protection, taking up and impounding the same, repealing an act on this subject of May 31, 1862.

It was referred to the Committee on Agriculture.

Mr. COWGILL. A bill [H. R. 49] ereating the 22d Judicial Circuit of Indiana and fixing the time of holding Circuit Courts therein. Committee on the Organization of Courts.

Mr. ODLE. A bill [H. R. 50] to amend the fifth section of the act to discourage the keeping of useless and sheep killing dogs, and repealing the act of March 11, 1861, not to conflict with the provisions of the act of June 15, 1852, supplementing an additional section and declaring an emergency. Committee on Agriculture.

SPECIAL COMMITTEES.

The SPEAKER announced the following Special Committees on subjects referred to in the Governor's message, under the resolution offered by Mr. Kimball.

The late Norman Eddy—Messrs. Henderson, Butterworth, Offutt, Wood and Cauthorn.

Tippecanoe Battle Ground — Messrs. Hollingsworth, Strange and Cole.

Soldiers' Monument — Messrs. Riggs, Willard, Goudie, Offutt, Kimball (chairman), Edwards, Richardson, Cowgill, Bowser, Glasgow and Hatch.

On motion of Mr. OFFUTT the House then took a recess till two o'clock p. m.

AFTERNOON SESSION.

The SPEAKER called the House to order at two o'clock p. m., and pursued the call by counties and districts.

Mr. BAXTER introduced a bill [H. R. 51] for an act to provide against the evils resulting from the sale of intoxicating liquors. It makes intoxication unlawful, and punishable by fine and imprisonment; makes the party selling the liquor by which a person is made drunk responsible for his proper care; gives the wife or children, or others dependent upon the per-

sons so made drunk, redress against the person selling the liquor or the owner of the property where sold; forbids change of venue in suits brought under it, and authorizes the sale of the premises on which the liquor whereby any one is made drunk to be sold to satisfy any judgment rendered for damages sustained in consequence thereof.

Referred to the Committee on Temperance.

Mr. GREGORY. A resolution directing that the unexpended balance of $18,000 appropriated to defray the expenses of the last General Assembly be devoted to defraying of the expenses of the present session.

It was adopted.

GENERAL ELECTIONS.

The SPEAKER called the attention of the House to the bill [H. R. 1] introduced by Mr. Mellett on the first day of the session, for an amendment to the Constitution changing the day for the holding of general elections, which remained undisposed of.

Mr. SHIRLEY expressed a doubt as to the power of this body to take up and consider any amendment to the Constitution while another is pending before the General Assembly or the people.

Mr. MELLETT was equally in doubt as to the right of the House in the case, and in view of the probability that an act would soon be passed calling a constitutional convention he would, with the consent of the House, withdraw the bill.

There being no objection the bill was withdrawn from the Clerk's files.

Mr. Peed's bill [H. R. 2] changing the time for holding courts in the Third Judicial Circuit was referred to a committee consisting of the members from the counties composing that district.

Mr. Butterworth's bill [H. R. 3] to repeal the Kankakee drainage law was referred to the Committee on Swamp Lands.

Mr. Hatch's corporation drainage act repeal bill [H. R. 4] took the same reference.

Mr. Shirley's exemption bill [H. R. 5] was referred to the Committee on the Judiciary.

Mr. Given's justices' jurisdiction amendment bill [H. R. 7] was referred to same committee.

Mr. Furnas' hunting and shooting amendment bill [H. R. 8] was referred to the Committee on Agriculture.

Mr. Shirley's public printing bill [H. R. 9] was referred to the Committee on Printing.

Mr. Woollen's bill [H. R. 10] was referred to the Committee on County and Township Business.

Mr. Kimball's centennial association bill [H. R 6] was referred to the Committee on Federal Relations.

NEW PROPOSITIONS.

The SPEAKER now resumed the call by counties and districts for original propositiths.

Mr. RENO introduced a bill [H. R. 52] for an act to amend the fish law; which was read and ordered to the second reading.

Mr. KING. A bill [H. R. 53] to authorize an appropriation of money out of the Treasury to enable the Trustees of the Indiana University to erect additional buildings [$30,000]. Committee on Education.

Mr. MELLETT. A bill [H. R. 54] to amend the act passed at the special session of the General Assembly, in December, 1865, to secure an equitable valuation, assessment and taxation of railroad property. Committee on Railroads.

Mr MELLETT introduced a bill [H. R. 55] to amend the Common School law. It provides for the appointment, in 1874 and triennially thereafter, by County Commissioners, of a County Superintendent, who shall hold at least one public examination each year, and shall grant no certificate to any teacher upon a private examination. He shall visit each school once a year, be the medium of communication between the State Superintendent and the officers of schools, and do all in his power to promote the efficiency of the schools. He shall have an office at the county seat, furnished by the County Commissioners, and shall receive $5 per day for each day of actual service, and an allowance for necessary office expenses. The Commissioners may limit the number of days' service of the Superintendent, but shall not restrict him to less than 150 days in each year. He shall also see to the collection of all fines and forfeiture accruing to the school fund. Referred to the Committee on Education.

Mr. OGDEN. A bill [H. R. 56] appropriating $20,000 annually, additional to all appropriations heretofore made in aid of the Indiana State University. Referred to the Committee on Education.

Mr. HOLLINGSWORTH. A bill [H. R. 57] to prevent stock from running at large. Referred to the Committee on Agriculture.

VISIT FROM VICE-PRESIDENT COLFAX.

During the reading of the above bill Vice President Colfax entered the hall of the House, and was escorted to the Speak-

er's desk by General Kimball. His appearance was greeted with applause by the members. When the reading of the bill was concluded, a recess was taken by the House, and members gathered around Mr. Colfax to exchange congratulations and take him by the hand.

The House being again called to order, the Speaker on behalf of Vice President Colfax, returned his thanks for the greeting extended to him. Mr. Colfax then withdrew, in company with a committe sent from the Senate to escort him to the Senate Chamber.

Mr. WILLARD said he was informed by the Clerk, there was already so much business introduced he would have difficulty in clearing his table in time for the morning session to-morrow, and he therefore moved an adjournment. At the request of several members he withdrew the motion.

Mr. WOOLLEN asked and obtained leave of absence for Mr. Kimball, for Wednesday and Thursday.

Mr. WOODARD offered a resolution directing the Doorkeeper to provide rooms for the use of the standing Committees, which was adopted.

STATIONERY, ETC.

Mr. OGDEN from the Special Committee appointed to fix the amount to be paid each member for stationery, stamps, and the number of newspapers to be furnished each member reported a resolution that each member draw $25 worth of stationery and stamps; that the Chairman of each Committee be authorized to draw $10 worth of stationery for his Committee; that the Chief Clerk be authorized to draw an amount of stationery not exceeding the cost of $50; the Assistant Clerk to draw stationery not exceeding the cost of $75; the Doorkeeper to draw the needful stationery not exceeding the cost of $10. He also reported another resolution, that the Doorkeeper be authorized to contract with the publishers thereof to furnish each member and elective officer of the House with three copies of the Indianapolis Daily *Journal*, the Daily *Sentinel*, the Daily *Telegraph*, the Weekly *Volksblatt*, wrapped and stamped, provided such newspapers can be purchased at wholesale prices.

Mr. Kimball proposed to amend the clause with reference to stationery and stamps, so as to authorize the Secretary of State to furnish each member of the House with $50 worth of Stationery and stamps; and that each member elect the amount of stationery and stamps for himself.

The amendment was adopted.

The report, as amended, was then concurred in.

Mr. SHIRLEY. I have been informed that it is the duty of the Librarian to furnish rooms for the committees; and if that be so I see not the propriety of placing that duty in the hands of the Doorkeeper. It may be that the resolution just passed will interfere with existing arrangements.

Mr. CAUTHORN. I believe that the Doorkeeper is the proper officer to furnish the committee rooms; but if anything has been done in the matter of hiring rooms, the Doorkeeper can confer with the Librarian.

Mr. SCHMUCK moved for a reconsideration of the vote by which the amended report of the Special Committee on Stationery was concurred in, stating that himself and others near him did not understand the question.

The SPEAKER. How did the gentleman vote?

Mr. SCHMUCK. I did not vote at all.

The SPEAKER. Then the gentleman can't make the motion to reconsider.

Mr. FURNAS. I move to reconsider the vote concurring in the report, and to lay the motion to reconsider on the table.

Mr. BRANHAM. I hope the motion to reconsider will not be laid on the table. We certainly did not well understand the question here. I call for a division of the question.

The SPEAKER. A division being demanded, the first question will be on the adoption of the motion to reconsider the vote concurring in the report as amended.

Mr. KIMBALL. I move to lay that motion on the table.

The yeas and nays being demanded, ordered and taken on the question, the result was, yeas, 56; nays, 39—as follows:

YEAS—Messrs. Anderson, Barrett, Billingsley, Bowser, Buskirk, Broadus, Cauthorn, Cline, Coffman, Cobb, Cole, Cogwill, Durham, Eaton, Eward, Furnas, Gifford, Goble, Gregory, Gronendyke, Hardesty, Hatch, Heller, Henderson, Isenhower, Johnson, Jones, Kimball, King, Kirkpatrick, Lee, Lent, Martin, Mellett, Miller, McKinney, Odle, Ogden, Peed, Richardson, Rumsey, Spellman, Strange, Shutt, Teter, Tingley, Thompson of Spencer, Thaver, Tulley, Walker, Wesner, Wolflin, Woollen, Wood and Woodard—56.

NAYS—Baker, Baxter, Blocher, Branham, Brett, Butts, Butterworth, Clark, Claypool, Crumpacker, Edwards, Ellsworth, Given, Glasgow, Glazebrook, Goudie, Hollingsworth, Hoyer, Lenfesty, McConnell, North, Offutt, Prentiss, Pfrimmer, Rudder, Reno, Reeves, Satterwhite, Schmuck, Shirley, Smith, Stanley, Thompson of Elkhart, Troutman, Wilson of Ripley, Wilson of Jay, Willard, Whitworth, Wynn and Mr. Speaker—39.

So the motion to reconsider was laid on the table.

The House then adjourned.

THE

BREVIER LEGISLATIVE REPORTS.

THIRTEENTH VOLUME.

INDIANA LEGISLATURE.

IN SENATE.

WEDNESDAY, November 20, 1882.

The Senate met at ten o'clock a. m., President Friedley in the chair.

After prayer by Rev. S. S. Hunting, of the Unitarian Church, the Secretary's minutes of yesterday's proceedings were read, corrected and approved.

PRISON REFORM.

Mr. BEESON presented the following memorial, which was referred to the Committee on State Prisons:

Indiana Yearly Meeting of the Religious Society of Friends, held at Richmond, from the 25th of the 9th Month to the 1st of the 10th Month, inclusive, 1872.

To the General Assembly of the State of Indiana:

The Society of Friends of Indiana Yearly Meeting respectfully represent that the prison system of the State is unsatisfactory, and its results are evil: 1st. In the promiscuous intermingling of young and old convicts—the novice and the expert in crime—in the same jails and State prisons; 2d. In the reformation of the prisoners not being sufficiently the object in view; And 3d. In the lack of provision for discharged convicts, the consequence being that very many discharged convicts relapse into crime, and a "criminal class" is being fast built up amongst us.

We, therefore, respectfully ask that you will pass such laws as will, as far as practicable, obviate these difficulties. 1st. By the establishment of a central (unpaid) board, which shall have the oversight and care of all the prisons in the State and of discharged convicts; 2d. By the more thorough classification of prisoners, and separation of the young from the more hardened; and such other measures tending to the improvement of the prison system, as in your judgment may seem advisable.

We also respectfully represent that the present buildings occupied by the State Prison South are wholly unsuitable for the purpose, and that a due regard to humanity requires that they shall be abandoned as speedily as possible.

Signed by direction and on behalf the meeting afor said.

CHAS. F. COFFIN, Clerk to the Men's Meeting.
EMILY J. HARRIS, Clerk to the Women's Meeting.

COMMITTEE CHANGES.

Mr. SARNIGHAUSEN asked and obtained excuse from serving on the Committee on Insurance, and Mr. BOWMAN asked and obtained excuse from serving on the Committee on Emigration.

The PRESIDENT appointed the latter gentleman to fill the place of the former, and the former gentleman to fill the place vacated by the latter.

SENATE EMPLOYEES.

Mr RHODES, from the Committee on Employees, reported the appointment of thirteen assistants to the Principal Secretary, eight assistants to the Assistant Secretary, twenty assistants to the doorkeeper, and two to the President, and in favor of the confirmation thereof, as follows:

By the Principal Secretary — Reading Clerk, John Overmeyer; File Clerk, Will S. Masterson; Registry Clerk, John W. Love; Engrossing Clerks, Cole, Adkinson, S. C. Fisher, S. S. Wilson, L. A. Hardesty; Enrolling Clerks, Milton Sill, William Deavonshire, W. H. Ballard and Lindsey Caldwell; Messenger, Johnny Busby; Page, Ben. S. Brown.

By the Assistant Secretary — Minute Clerk, W. H. Smith; Principal Journal Clerk, C. D. Murray; Second, A. F. Davis; Third, W. M. Ross; Fourth, J. T. Wells; Copy Clerks, Emmet Pierson and W. A. Olive; Page, Lincoln Rhoads.

By the Doorkeeper—First Assistant, J. F. Furnish; East Door, R. H. Brown; Center Door, Archibald Anderson; West Door, Isaac Aldrich; Postmaster, Herbert Platter; Mail Carrier, N. H. Ward; Folding Clerks, Katie Pease, Effie Miller; Cloak Room, Samuel Little; Firemen, J. F. Fisher and James Cox; Sweeper, Lewis Wettergill; Committee Rooms, J. W. Martin and R. C. Wilkinson; Enrolling and Committee Room, Martens Justice; Spittoon Cleaner, John Abrams; Pages, W. B. Haworth, E. D. Braden, Willie Pruden and Will Furnish.

Secretary to the President—Carey Henderson; Page, Warren Rose.

On motion the appointments were confirmed.

SENATORS' MILEAGE.

Mr. DITTEMORE, from the Committee on Mileage and Accounts, presented their report, which was concurred in.

COMMITTEE ROOMS.

Mr. WILLIAMS, from the Committee ou Committee Rooms, reported in favor of allowing one room to each of the following: Committe on Education, Corporations, Organizations, Fees and Salaries and Claims, and Temperance and Reformatory Institutions.

The report was concurred in.

U. S. SENATOR.

Mr. BROWN offered a concurrent resolution that the General Assembly proceed next Tuesday, at 12 m., to elect a United States Senator. It was adopted.

COMMITTEE CLERKS.

Resolutions were adopted authorizing the employment of a Clerk by each of the following Committee: Finance, Claims, Temperance, Reformatory Institutions and Organization of Courts by Justice.

MARRIED WOMEN.

Mr. HAWORTH offered a resolution directing the Judiciary Committee to inquire into the propriety of amending the laws concerning the rights of married women so as to extend to them the same rights in relation to holding property, making contracts, &c., as are enjoyed by unmarried women. It was adopted.

TIPPECANOE BATTLE GROUND.

Mr. ORR offered a resolution for the appointment of a Committee of three to devise a plan for the permanent enclosure of the Tippecanoe Battle Ground, as recommendod by the Governor in his message.

It was adopted.

STATIONERY AND STAMPS.

Mr. NEFF offered the following.

RESOLVED, That the Secretary of State be requested to report to the Senate before the close of the present session, the amount in value of the stationery and postage stamps furnished to each member of the Senate and officer, and that such statement shall, if found correct, be the basis of settlement between the Secretary of State and the State of Indiana.

On motion of Mr. DITTEMORE it was laid on the table.

LEGISLATIVE EXPENSES.

On his further motion, the order of business was suspended, and the bill [H. R. 73] for an act to make an appropriation of $75,000 to defray the expenses of the present session of the General Assembly was taken from the files, read the three times, under a dispensation of the constitutional restriction—yeas, 41; nays, none—and finally passed by yeas, 39; nays, 4.

NEW PROPOSITIONS.

Bills for acts were introduced, read the first time, and severally passed to the second reading.

By Mr. BEESON, by request, a bill [S. 44] for an act to amend the act establishing a House of Refuge for juvenile offenders, approved March 8, 1857, and repealing section eleven of said act. Infants under the age of sixteen may be committed by Judges of the Circuit and Common Pleas Court for incorrigibility or viciousness, where they have no suitable home or adequate means of obtaining an honest living, or who are in danger of being brought up to lead an idle and an immoral life.

By Mr. TAYLOR. A bill [S. 45] for an act to provide for the permanent inclosure of the Tippecanoe battle ground. Constituting the Governor, Secretary, Auditor and Treasurer of State commissioners to provide a permanent inclosure for the Tippecanoe battle ground.

By Mr. NEFF. A bill [S. 46] for an act repealing section forty-one of the act prescribing who may make a will, the effect thereof, what may be devised, etc. Repealing section forty-one of the act prescribing who may make wills, etc. The section sought to be repealed provides that the determination of a contested will case against the plaintiff shall not debar any other person from bringing a suit to set the will aside at any time within three years.

By Mr. CAVE. A bill [S. 47] for an act to repeal an act for the protection of fish.

COMPLIMENT TO GOVERNOR BAKER.

Mr. HALL offered the following resolutions, which are similar to those passed by the House yesterday:

RESOLVED, That we heard with pleasure the able and exhaustive message delivered in the presence of the joint convention of the two Houses of this General Assembly, on Thursday last, by His Excellency, Conrad Baker, and whilst there may not be perfect and entire unanimity upon all the recommendations therein contained, yet, as a whole, it commends itself to the judgment of this House as an able and reliable State paper.

RESOLVED, That the allusions made by His Excellency to Norman Eddy, late Secretary of State for Indiana, does credit to his past reputation as a Christian statesman, and meets with a hearty response and approval from the Senate; and so beautifully and feelingly was the allusion made, that we are at a loss whether to admire more the sentiments expressed or the emotional manner in which they found expression.

RESOLVED, That having experienced, during his administration, the disadvantages resulting from the parsimonious salary meted out to him, we appreciate more fully the unselfish spirit with which he endeavors to shield his successors in office, immediate and remote, from like impositions.

It was adopted.

The Senate then took a recess until two o'clock p. m.

AFTERNOON SESSION.

The Senate met at two o'clock.

Mr. DWIGGINS called up the special order, being a concurrent resolution providing for a joint committee of the two Houses, to consist of one Senator and two Representatives from each congressional district, to consider the subject of reorganizing the judicial system of the State, the question being on a substitute therefor providing for but eleven members of the said committee.

Mr. DWIGGINS spoke in favor of the original resolution. He said: It is hardly worth while to argue the propriety of the reorganization of the judiciary system. Perhaps the only question of difference between members is, how shall we best arrive at the result desired? We find a great many conflicting interests. An answer to the objection that the committee is too large, is to be found in the fact that it is easier for thirty-three men to agree than for one hundred and fifty. And if there be a small committee of only eleven appointed, the probabilities are that they will not be sufficiently conversant with the wants of the different parts of the State to make a report acceptable to members generally. Therefore, I suggest it would be better to have a large committee, which would thoroughly digest the subject, and be far more likely to present a measure that will be acceptable to members generally, than to trust the subject to a committee composed of but eleven members. It being very questionable whether, during the sitting of this session, the necessary time can be devoted to the subject, and the people of the State consulted sufficiently, to prepare a bill acceptable to all parts of the State; therefore, I think it proper to require the committee to report to the next session of the General Assembly. For these reasons. I think the resolution I have introduced should pass.

Mr. DITTEMORE. From the fact that there are conflicting opinions between members of this body on this subject I, move to postpone the further consideration of the subject till Friday next, at two o'clock, p. m.

The motion was agree to.

WORK FOR COMMITTEES.

The following described bills were read the second time, by title only, and referred to appropriate committees.

Mr. Hubbard's bill, [S. 15] authorizing cities and towns to negotiate and sell bonds to procure means for the erection of school houses, etc., and authorizing the levy of a special tax for school purposes.

Mr. Taylor's bill [S. 16] authorizing suits to be brought in partnership only in certain cases.

Mr. Orr's bill [S. 17] to amend section 2, of act of 1861, amending sections 8 and 10 of the Justices' act of June 9, 1852.

Mr. Miller's bill [S. 18] to repeal the plank and gravel road assessment acts of May 14, 1869, and of March 11, 1867.

Mr. Neff's bill [S. 19] amending the divorce law.

Mr. Armstrong's bill [S. 20] in relation to the sale of real estate, on execution, owned by husband and wife.

Mr. Gregg's bill [S. 21] to repeal section one of the State Agent act, and amending section four of this act.

Mr. Bird's bill [S. 23] authorizing county commissioners to appropriate money to keep in repair any canal running in or through said county.

Mr. Cave's bill [S. 24] to amend section twenty of the highway supervisors act of December 20, 1865.

Mr. Beardsley's bill [S. 22] to regulate the interest on money.

Mr. O'Brien's bill [S. 25] to repeal the fee and salary act, and reviving all laws repealed thereby.

Mr. Neff's bill [S. 26] to amend section eighteen of the act of May 14, 1852, regulating the law of descents and apportionment.

Mr. Glessner's bill [S. 27] to legalize certain acts of corporations, organized under the plank road act.

Mr. Orr's bill [S. 28] to amend section one of the act providing for the completion of the unfinished business of any regular session of the Legislature.

Mr. Thompson's bill [S. 29] to provide for the enlargement of the State House grounds.

Mr. O'Brien's bill [S. 30] to amend the act organizing the Supreme Court.

Mr. Glessner's bill [S. 31] supplemental to the plank and gravel road assessment act of May 11, 1867.

Mr. Dwiggins' bill [S. 32] to legalize the sale of seminary lands in Jasper county.

Mr. Beardsley's bill [S. 33] to amend the Indiana Fire and Marine Insurance Company's charter.

Mr. Huff's bill [S. 34] to amend sections 90 and 103 of the general practice act.

Mr. Gregg's bill [S. 35] to amend sections 17 and 29 of the city incorporation law of March 14, 1867.

Mr. Neff's bill [S. 36] to regulate prosecutions in cases of bastardy.

Mr. Cave's bill [S. 37] to amend section 47 of the highway act of June, 1852.

Mr. Gooding's bill [S. 38] supplemental to the act of February 25, 1865, to provide a residence for the Governor.

Mr. Boone's bill [S. 39] to amend the drainage law.

Mr. Thompson's bill [S. 40] to amend section 2 of the voluntary association law of February 12, 1855.

Mr. Slater's bill [S. 41] to amend section 5 of the liquor law of March 5, 1859.

Mr. O'Brien's bill [S. 42] to repeal section 15 of the promissory note and bill of exchange act of March 11, 1861, and the real property redemption act of June 4, 1861.

Mr. Beardsley's bill [S. 43] to authorize the construction of levees, dykes and drains by incorporated companies.

RAILROAD TARIFFS.

On motion of Mr. WILLIAMS, his bill [S. 6] to regulate prices charged by railroad companies for transporting passengers and freight in this State, was made the special order for two o'clock p. m. tomorrow.

GOVERNOR'S MESSAGE.

On motion by Mr. BROWN the Senate resolved itself into a Committee of the Whole (Mr. Williams in the chair) for the consideration of the Governor's message.

On motion of Mr. ORR the reading of the message was dispensed with.

Mr. GREGG offered the resolutions adopted by the House yesterday, on the reference of the message to appropriate committees.

After some conversation across the House on points of order——

So much of the message as referred to the completion of unfinished business of one session by another, the Garret suit against the Wabash and Erie Canal, and the Constitutional Convention, was referred to the Committee on Judiciary.

The portion relating to the addition of another Judge to the Supreme Court was referred to the Committee on the Organization of Courts.

The remaining resolutions were adopted, as follows:

RESOLVED, That so much as relates to the act regulating fees and salaries, and to the salaries of the Governor and Judges of the Supreme Court, be referred to the Committee on Fees and Salaries.

RESOLVED, That so much as relates to additional provisions for the insane; to the institution fer the education of the blind, and to the Soldiers' Home, be referred to the Committee on Benevolent and Scientific Institutions.

RESOLVED, That so much as relates to House of Refuge and to the Indiana Reformatory Institute for women and girls, be referred to the Committee on Reformatory Institutions.

RESOLVED, That so much as relates to the State prisons be referred to the committee on that subject.

RESOLVED, That so much as relates to the State Normal School be referred to the Committee on Education.

RESOLVED, That so much as relates to the Treaty of Washington be referred to the Committee on Federal Relations.

RESOLVED, That so much as relates to the Constitutional amendment in relation to the canal debt, be referred to the Committee on Judiciary.

RESOLVED, That so much as relates to the late Norman Eddy be referred to a select committee of five.

RESOLVED, That so much as relates to Tippecanoe Battle Ground be referred to a select committee consisting of Messrs. Taylor, Rhodes and Carnahan.

RESOLVED, That so much as relates to the soldiers' monument be referred to a select committee of one from each Congressional district.

On motion of Mr. BROWN, the committee rose and reported its action to the Senate, which concurred therein, and the committee was discharged.

The Senate then adjourned until tomorrow at two o'clock.

THE BREVIER LEGISLATIVE REPORTS.

THIRTEENTH VOLUME.

INDIANA LEGISLATURE.

HOUSE OF REPRESENTATIVES.

WEDNESDAY, November 20, 1872.

The House met at nine o'clock a. m.

The SPEAKER. The Committee on Chaplain Service informed me that the Rev. Mr. Day would be present this morning. As he is not present, the Clerk will read the Journal.

The Clerk read his journal of yesterday, till, on the motion of Mr. Thompson, of Elkhart, the further reading was dispensed with.

Mr. HELLER. I see the two bills introduced yesterday by my colleague (Mr, Bowser) the papers have credited to me.

The SPEAKER. They are credited right by the Clerk.

The bills numbered 41, 12, 13, 14, 15, 17, 18, 19, 21, 27, 29, 40, 43, 44, 48, 52, were read the second time by the title, and referred to appropriate Committees.

On motion of Mr. BRANHAM, his bill [H. R. 21] to amend the first section and title of the act to provide for the completion of the business of any session of the General Assembly by the succeeding session of the same General Assembly, was taken up and by suspensions of the rules and restrictions it was ordered to be engrossed, read the third time, and passed the House of Representatives—yeas, 91; nays, 0.

The SPEAKER took up the Call of the House by counties for

NEW PROPOSITIONS.

Mr. BOWSER. A bill [H. R. 58] to promote the science of medicine and surgery in the State of Indiana, and to provide penalties for the violations of its provisions. It permits wardens of prisons, superintendents of hospitals, etc., to deliver to medical schools bodies of deceased persons, under certain restrictions, and provides punishment, by imprisonment in the penitentiary, for violation of its provisions.

Mr. BOWSER moved to refer to a special committee, consisting of Messrs. Eaton, Richardson, Jones, Strange and Butterworth.

Mr. BAXTER moved to amend by referring to the Committee on Benevolent Institutions; and it was so ordered.

THE CARROLL COUNTY SURPLUS REVENUE CASE.

Mr. RICHARDSON offered the following:

WHEREAS, Two suits were instituted in the Circuit Court of Carroll county, Indiana, in the year 1868, by the State of Indiana, on the relation of John D. Evans, Auditor of State of Indiana, against Joseph Evans and William Dunkle, executors of Samuel Grimes, late of Carroll county, deceased, former agent appointed by the Legislature of this State in the year 1837, for the management of that portion of the surplus revenue fund of 1836, which was allotted to Carroll county, for the recovery of certain moneys in the possession of said executors which belonged to said surplus revenue fund; and

WHEREAS, The records of said Carroll Circuit Court show that said suits were prosecuted to final judgment, and that judgment was obtained thereon amounting in the aggregate to $45,699.04 for the use of the State of Indiana on account of said surplus revenue fund; and,

WHEREAS, The records of said Court show that said Auditor of State, John D. Evans, by his attorney of record in said suits receipted in full for said judgment, one on the 6th day of October, 1869, and one on the 12th day of July, 1870; and,

WHEREAS, It appears from the records of the Auditor of State of Indiana, that only $709 of said money so recovered have been accounted for and paid into the State Treasury for the use of said surplus revenue fund, therefore,

RESOLVED, That a special committee consisting of five members of the House be appointed to investigate and inquire into the facts set out in the preamble of the resolution; and that said committee be empowered to send for persons and papers to aid them in such investigation, and that they report their proceedings hereon to this House without unnecessary delay.

The resolution was adopted.

Mr. ELLSWORTH. A bill [H. R. 59] to amend the Supervisors' act.

Mr. GIVEN. A bill [H. R. 60] to provide for the assessment and collection of taxes for municipal purposes, on shares of stock owned in banks and banking associations doing business in the State of Indiana.

Mr. WILLARD. A bill [H. R. 61] to repeal the act to create the twenty-seventh judicial circuit, of April 23, 1869.

A bill [H. R. 62] limiting the disposition of property by will to eleemosynary institutions to one-third the amount devised.

He also submitted, ineffectually, a resolution for furnishing members with five additional copies of the of the Weekly *Journal*, Weekly *Sentinel*, *Mirror*, etc.

Mr. TROUTMAN. A bill [H. R. 63] to amend sections 10, 11, 12, 14 and 16 of the common school act.

Committee on Education.

Mr. BUSKIRK. A bill [H. R. 64] to make holidays the 1st of January, the 4th of July, the 25th of December—thanksgiving, general election days of the State, and the days of Presidential election.

Committee on Banks.

Mr. ISENHOWER. A bill [H. R. 65] to authorize Prosecuting Attorneys of the Circuit Courts to prosecute pleas for the State before Justices of the Peace, and to regulate their fees before justices.

Judiciary Committee.

Mr. LENFESTY. A bill [H. R. 66] to amend the 207th section of the general practice act of June 18, 1852. [Specifying causes for the change of venue.]

The Committee on Organization of Courts.

Also a resolution requesting the Governor to furnish the House with the names and number of convicts who have received the benefit of the pardoning power since the 1st of January, 1871.

Mr. PFRIMMER. A bill [H. R. 67] making an appropriation of $413,599 48 to pay the claims of sufferers by the Morgan raid. Committee on Claims.

Mr. OFFUT. A bill [H. R. 68] to amend the seventh clause of section twenty-two of the act for incorporation of towns defining their powers, for the election of officers thereof, etc., approved June 11, 1852. Committee on Temperance.

Mr. KIRKPATRICK. A bill [H. R. 69] for an act in relation to the settlement of Supervisors of Highways with Township Trustees, defining the time of settlement. [First Saturday in October in each year.]

He also submitted a resolution for amendment of the rules so that any bill receiving a favorable committee report be printed for the use of members, which lies over one day.

Mr. BRANHAM. A bill [H. R. 70] for an act to enable counties bordering on lines or rivers forming State boundaries, and cities therein, to aid in the construction of railroads opposite such counties on either side: to run to such counties or to the State line or river forming the State boundary bordering such county; to form connections with other railroads in such county, and prescribing the duties of officers of such counties for that purpose; and to authorize cities to issue bonds for such railroad aid. Committee on Railroads.

Pending the reading of this bill, on the motion of Mr. CAUTHORN, there was a recess to hear a speech from the Hon. S. Colfax, Vice President of the United States.

GREETING MR. COLFAX.

Mr. Colfax was presently invited, and advanced to the dais for the Speaker's chair, and received with a quiet, general applause; and when the Speaker had presented him to the House, as a distinguished citizen of Indiana, Mr. Colfax, addressing the Speaker and the House, said, that on the occasion of his visit on the previous day, he had asked the Speaker to return to the House his thanks for the courtesy extended to him, and had congratulated himself, when leaving the hall, that for once he had escaped from a deliberative body without the necessity of inflicting a speech upon the members. He had come in to day to see the members from his county, Messrs. Butterworth and Henderson, and some other friends, and had no thought of making a speech. He, would, therefore, be brief. He wished again to return thanks to the House for the very courteous manner in which they had unanimously tendered him its privileges during his brief stay in the city. As a citizen of the State, he was proud of his Indiana citizenship, and proud of this representative body (so universally spoken of here in the highest terms of praise), which has the guarding of its interests in its hands. In visiting the Hall of Representatives, he was reminded of the incident in

his early public career, when he sat there as a member of the State Constitutional Convention.

Many who met with him then and had both before and since, filled important positions in the political history of the State have passed away, but many of them still remain. Among these he instanced Judge Pettit, of the Supreme Court, at that time a conspicuous leader in the then dominant Democratic party; Mr. Hendricks, the Governor elect of the State, between whom and himself the most cordial and friendly relations had existed from their meeting here in that convention in 1850, till the present time; Judge Holman, the Representative in Congress from the Third District; Judge Biddle, Robert Dale Owen, Judge Dunn, Mr. Newman, General Dunn, and others. The predictions so freely made at the time that convention was engaged in its deliberations that by their action the members were digging their political graves had, happily, so far as they were concerned, not been realized, as many of them had been prominently connected with public affairs since. Many provisions engrafted in our State Constitution by that convention the State has since out-grown, and many others were then considered novel. He was glad to be able to say that many of the reforms then adopted were afterwards copied by older States. Especially worthy of mention in this connection was the clause prohibiting special legislation, and requiring all corporate bodies to be formed under the provisions of general laws, so that the rights of the poor might be guarded, and special privileges and favors denied to the rich and powerful. Though the constitution adopted by that body was at the time an honor to the State, she has since in many respects outgrown it.

It would be remembered by many of those present that a few years previously, at the time referred to by him in the Senate yesterday, when in 1843 he commenced public life as reporter, the State was almost bankrupt, although now happily free from debt, growing and prosperous. But even at that darkest hour in her history, when scarcely able to raise the means necessary to defray the current expenses of her government, when she was compelled to issue scrip which was hawked about the State at a heavy discount, even then the Legislature, relying upon the great heart of the people, had levied taxes for the establishment of benevolent institutions, where those whose minds had been overthrown could be ministered unto, where the blind could be made to almost see, and the dumb to almost speak. A[l]though the State in her poverty was[s] most a by-word, her people without [d]tinction of party had indorsed this act of the Legislature, and no taxes have b[een] more cheerfully paid then and since. [I] believed that noble and philanthropic [ac]tion had brought God's blessing with [it] that to it might be attributed, in g[reat] measure, the subsequent prosperity of [the] State. For State or citizen receiving [the] "blessings of those who are ready to p[erish]," will surely receive an abundant [re]ward. As citizens of Indiana we were m[ost] interested in the development of her g[reat] resources, the advancement of her m[ate]rial prosperity, and her progress in all t[hat] is wise and just, than in mere question[s] party triumph, and he had high hopes t[hat] their deliberations would tend to these results. Invoking the blessing of Him w[ho] holds in his hands the destinies of St[ates] and nations, upon their deliberations, a[nd] again thanking them for the courtesy shown him, Mr. Colfax closed amidst t[he] applause of the members

The SPEAKER resumed the call of the House by counties for

NEW PROPOSITIONS.

Mr. BRANHAM. A bill [H. R. 71] to amend section sixty of the general c[or]poration act of March 19, 1867. [Re]lating city proceedings in borrowing mo[ney] to aid in the construction of buildings, e[tc.] of public utility. It was referred to the Committee on Corporations.

A bill [H. R. 72] for an act in relation to criminal circuit courts, and to create the 29th [Criminal] Circuit Court for Jefferson County. It was referred to the Committee on the Organizations of Courts.

Mr. WOOLLEN. A preamble and resolution [which were adopted] directing the Judiciary Committee to report to the House a bill to enable His Excellency the Governor to draw his compensation for residence, from the first of January last to the expiration of his term of office.

Mr. WILSON, of Ripley. A bill [H. R. 73] to fix the per diem and mileage of members of the General Assembly, and providing that they shall provide their own stationery. [$8 per diem.]

Mr. WOOD. A bill [H. R. 74] to amend section ninety of the criminal practice act of June 17, 1852. [Parties interested—Parties accused may testify, but shall not be compelled, etc.]

The SPEAKER announced the following select committee in relation to the State House, viz: Messrs. Cauthorn, Willard, Goudie, Broadus, King, Isenhower

Durham, Anderson, Wilson of Ripley, Cobb (chairman), and Crumpacker.

Mr. EDWARDS, of Lawrence. A resolution for an order (which was adopted) that the credentials of members be referred to the Committee on Credentials.

Mr. KING submitted a resolution for an order (which was adopted) for printing 1,500 copies of the annual reports of the trustees of each of the followfng institutions: The Hospital for the Insane, and the Institution for the Blind, and the House of Refuge—100 copies of each report for the use of members of the House, etc.—authority for printing the reports for the Institution for the Deaf and Dumb being already provided by law.

Mr. HARDESTY. A bill [H. R. 75] to authorize and regulate the incorporation of banks of discount and deposit in the State of Indiana. [Not less than five corporators and three directors—capital stock not less than $25,000.] Committee on Corporations.

Mr. MARTIN. A bill [H. R. 77] concerning promissory notes, bills of exchange, bonds, or other instruments of writing promising to pay money or to do any act for the purpose of carrying out or enforcing contracts, services of processes, jurisdiction of justices, etc. Judiciary Committee.

Mr. SMITH. A bill [H. R. 78] to amend section 10 of the act to provide for the erection of a new prison north of the National Road, approved March 5, 1859. Committee on Fees and Salaries.

Mr. GLASGOW. A bill [H. R. 79] to amend sections 6, 10, 20 of the act to amend the act to provide for Supervisors of Highways, etc, approved December 26, 1865. Committee on Roads.

Mr. HOLLINGSWORTH. A bill [H. R. 80] to prevent the spread of thistles, common in this country, providing penalties, etc. Committee on Agriculture.

Mr. WALKER. A bill [H. R. 81] to amend sections 2, 3, 4 and 6, of the act to provide for the relocation of county seats, and for the erection of public buildings, approved March 2, 1855, and to amend the act of December 18, 1865. Committee on Courts.

U. S. SENATORIAL ELECTION.

A message from the Senate was received for information, that that body had passed Mr. Wood's bill appropriating $75,000 to defray the expenses of the special session of 1872, of the General Assembly of the State of Indiana. Also, a concurrent resolution that the General Assembly will, on the second Tuesday after the meeting and organization—on Tuesday, November 26, 1872, at 12 o'clock, m., of said day, by a viva voce of each member present in this House proceed to elect a Senator of the United States to represent the State of Indiana in Congress, whose term shall commence at the expiration of the term of Senator Morton.

On motion of Mr. WOODARD, the order of business was suspended and the House took up the consideration of the latter subject of the message from the Senate.

On motion of Mr. GIFFORD, the concurrent order for the time of the election of United States Senator was adopted—by yeas, 91, nays 1—on the part of the House of Representatives.

Mr. FURNAS asked and obtained leave of absence for Mr. Ogden, till the day after to-morrow.

JUDICIARY COMMITTEE.

Mr. WALKER submitted a motion for an order, which was adopted, that there be two members of the House added to the Committee on the Judiciary. The Speaker thereupon appointed Messrs. Miller and Shirley to serve as additional members of the Committee on the Judiciary.

On motion of Mr. WALKER the House then adjourned till to-morrow morning, 9 o'clock.

THE

BREVIER LEGISLATIVE REPORT

THIRTEENTH VOLUME.

INDIANA LEGISLATURE.

IN SENATE.

THURSDAY, November 21, 1872.

The Senate met at two o'clock, p. m., the President, Hon. George W. Friedley, in the chair.

On motion by Mr. GREGG, the reading of the Secretary's journal of yesterday's proceedings was dispensed with.

RAILROAD TARIFF.

Mr. DITTEMORE called up the special order for this hour, being Mr. Williams' bill [S. 6] for an act to regulate and make uniform the prices charged by railroad companies for transporting passengers, goods and other property to and from stations on railroads in the State of Indiana, declaring the duty of certain officers in relation thereto, prescribing penalties for the violation thereof, and declaring an emergency.

The bill being read the second time, by sections, Mr. DITTEMORE moved to amend by striking out the second section of the bill, which exempts from the operation thereof any railroad company which shall not have been in operation ten years or more. It is in these words:

SEC. 2. The provisions of the preceding sections shall not apply to any railroad company which shall not have been in operation for ten years or more.

Mr. WILLIAMS did not object to the amendment. The section was inserted when the bill was drafted, four years ago, to relieve new and feeble roads. But these roads had now nearly all been absorbed by or consolidated with large and powerful corporations, and could not suf being included in its provisions. Th was prepared in the interest of the chants and shippers of Indianap protect them against exorbitant ra goods which were shipped but a sho tance. This bill passed the House of resentatives almost unanimously two ago, but on coming to the Senate, it from some cause or other—he kne what. There seemed to be but lit tention paid to it at that time by any but himself.

Mr. NEFF was in favor of striking for the particular reason that the roads have nearly all consolidated wealthy roads, so that the benefit o second section would enure to the companies, and not to the new ones constituents living along the line of of these old roads have experienc troubles referred to by the Senator Knox [Mr. Williams]. He lives in chester, and knew that goods have shipped off other roads on to the Pe taine road, and forced to pay exor rates. In his locality shippers ha fered from overcharge in local fr For instance, the road from Day Union City is forty-seven miles lon that from Union City to Winches ten; yet the freight from Winches greater than from Union City to Pe The bill was intended to protect sh against such exorbitant charges. For reasons, which he could name, he be the section should be stricken out.

Mr. ORR felt disposed to do jus

railroads as well as to the citizens of the State, for he remembered that new roads are at a very heavy expense until they get their roads ballasted and leveled. He thought it might be doing new railroads injustice to strike out this section. This motion seems to be a strike against new roads, and he was in favor of protecting the railroads as well as the citizens of the State. New railroads would suffer from requirements like those proposed in the bill. He suggested that the word "ten" be struck from the second section. and "five" substituted.

Mr. DITTEMORE. The trouble about extending any limit for the time of the extension of the road has been fully and fairly expressed by the Senator from Knox [Mr. Williams]. The people he has the honor to represent are affected by the section proposed to be stricken out, and were convinced that there was no occasion for it. The principle of consolidation of railroads has been going on in the State at a very rapid rate; indeed, at an alarming rate. In his section, a road that is only three years old is in the hands of the wealthiest corporation in the United States—the Pennsylvania Central. We have arrived at a time when it becomes necessary for legislators representing the laboring man, the manufacturer and all the other industrial classes of the State, to take some steps to protect the interests of the people in regard to this monopoly. The Indianapolis and Vincennes road, completed within the last four years, has passed into the hands of the Pennsylvania Central. On that road the people are taxed for a car from Spencer to Indianapolis, thirty-five dollars; while from Gosport, a point eight miles this side, where there are competing lines, the price per car is only fourteen dollars. These extravagant prices fall upon all classes; not alone the shipper, but the seller and producer—and the time has come when the representatives of the people should take the matter in hand, and, if possible, check it now. If it is not done soon, this alarming and growing evil will become so strong in the land that legislation in the future will be ineffectual. He was ready to proceed at once to legislation on this subject, and, if possible, put a check upon the growing evils these corporations impose upon the country generally.

Mr. DWIGGINS objected to the remark made by the Senator from Knox [Mr. Williams], that no other Senator seemed to take any interest in this matter two years ago, as doing injustice to other Senators who were here then.

Mr. DITTEMORE moved to amend the amendment so as to strike from the second section the word "ten," and insert "five," and add a clause that this provision shall not apply to roads consolidated with or leased by railroads which have been in operation more than ten years. It takes five years ta get a road ballasted and in running order, and he thought the new roads should be exempt from the operation of this bill. The main features of the bill he was in favor of, but at the same time he did not desire to crush out any railroads by the operation of this act.

Mr. NEFF said he had goods shipped from Boston here and back to Winchester, for forty-two cents a hundred, when if they had been shipped direct to Winchester, it would have cost $1.25 a hundred.

Mr. HARNEY said other States have tried this thing and have failed almost entirely. The State of Illinois had perhaps made the most effectual effort in the direction of making cheap freights equal all through the State. They passed a series of very stringent laws upon the subject, and had a commissioner appointed to see that they were enforced. The commissioner in his last report says it has been, so far, utterly impossible on his part to regulate the matter, but he thinks that with some additional legislation there is a probability that it can be made effectual. There are so many means by which a railroad can evade compliance with the law that so far they have been enabled to conduct their business in the old way. For instance, we say they shall not charge higher rates than they do on the whole line of their road; they make arrangements with another road, and the question would arise whether this pro rata of freight should be on the basis of the rates with the other road or over their own road. Perhaps their rates with another road would be lower than they could afford to do local business for. The matter requires a great deal of investigation. He suggested that the matter be referred to a committee and perhaps some means might be devised by which justice could be done to all parties. A new road is entitled to no more privileges than an old. It is under the same obligations to those who support it by their patronage. This bill may be passed, but as far as a remedy is concerned he believed it would be ineffectual. While there may be some merit in the proposed amendment by the Senator from Jasper [Mr. Dwiggins] to look at it from one point of view, in another light it was not so desirable. A new road, whatever may be its necessities, has no right to require for its

services from one community double what it requires from another. All should receive equal justice at its hands. Where legislation undertakes to regulate railroads strict and impartial justice should be done to all parties.

Mr. GOODING concurred in what the Senator from Montgomery (Mr. Harney) had said. He thought this bill, perhaps as important as any we will have to pass upon. There were some features of the bill that he did not understand—some features he hardly felt competent to vote upon at this time. There might be some question as to the constitutionality of the bill. For these reasons he moved the reference of the bill to the Committee on Railroads, that Senators may have an opportunity to read and ponder over it: before voting on it, but he afterwards withdrew it by request, for the purpose of allowing amendments to be offered.

Mr. BROWN renewed the motion, it being understood that every Senator had the right to send his suggestions to the Committee with the bill.

Mr. WILLIAMS resisted the proposition to refer the bill to a Committee. Can Senators be better satisfied after it comes from a Committee than after reading it? Certainly every Senator can judge for himself whether or not he can afford to vote for this bill. He insisted, at all events, that Senators ought to make it as perfect as they can, in open session. He could not see the necessity for a reference. The bill had been prepared by lawyers of this city, was plain in its provisions, and he thought every Senator ought to be able to vote on it at once.

Mr. BROWN hoped a motion to refer would prevail because he was a friend to the principle embodied in the bill, and desired the action of the Senate shall be valid. Hasty legislation is very expensive legislation sometimes. We have before us somewhere in the neighborhood of eighty days of legislation, and a portion of this time could not be better spent than in considering this question.

Mr. THOMPSON thought the provisions of the bill were so plain and simple that any one could understand them at once. He pronounced them fair and equal and he did not believe that the Senate would be satisfied with anything short of this.

Mr. DITTEMORE in order to get the bill in proper shape was willing to see it referred to a Committee.

Mr. WADGE thought an inspection of the bill showed that it was not drawn by a man who had any practical knowledge of railroading. He went on to analyze the provisions to show that the rates were absurd, and no railroad could freight short distances at the rates Under its present wording railroads be compelled to carry passengers fo than one cent a mile.

Mr. WILLIAMS replied to the tions presented by the Senator from (Mr. Wadge) declaring that they based on an erroneous foundation.

Mr. WADGE insisted that his bas correct.

Mr. SLEETH asked if the Senator Knox (Mr. Williams) was prepar state the actual cost to railroads of ing freight these different distances.

Mr. WILLIAMS replied that he wa

Mr. BROWN. If the Senator from [Mr. Williams] is really a friend measure, it occurs to me that his be won't lose anything by being allowe enough to grow. This is a railroad great importance, and, as the Senator Lake [Mr. Wadge] says, it is evident pared by men not having a knowle railroad affairs. I am opposed to h ing such matters through the Senate. be it from me to suppose that the committee in this Senate but what w speedily and without delay, and a as practicable act upon any measur mitted to that committee for its cons tion.

Mr. GOODING. I favor the ob this bill, and think we need some legislation; but to press a vote in th ate at the present time, I might be pelled to vote against it. I think th is somewhat imperfect, and that i sufficient importance to require c and deliberate reflection at the ha Senators; and considering its impor I think it may well be referred to mittee. Other bills of far less impo we see proper to refer to committee why this bill should be crowded th the Senate, I cannot understand.

Mr. NEFF. While I am in favor provisions of the bill, and am in fa referring it to a committee, y that the Senate, before it refer mittee, should perfect it as near as po I believe it to be the duty of the Sen perfect the biil in this chamber as as may be. I think it a matter o great importance to the people of the that we should have this legislatio that the greatest care should be tak perfecting this measure. The peop demanding it of us, and we should home to our constituents without h done something in this direction.

Mr. STEELE suggested that the

no penalty attached to the violation of the provisions of this bill, and that it would require amendment in that particular at least.

The motion to refer the bill and pending amendments to the Committee on Railroads was then agreed to.

STATE PRISONS.

A message from the House announced the passage of the concurrent resolutions by that body, directing that no new contracts be made for convict labor of the State Prisons, and looking to a system of graded prisons.

SOUTHERN INDIANA U. S. COURT.

On motion of Mr. WILLIAMS the Senate proceeded to the consideration of the message from the House of Representatives, transmitting a concurrent resolution adopted by that body, instructing Senators and requesting Representatives from Indiana to use their influence to prevent the passage of any law by Congress creating a United States District Court for the Southern District of Indiana.

Mr. DWIGGINS moved to concur in the resolution.

Mr. GOODING thought the whereases in the resolution had not been proven yet; and, knowing something of the wants of the people in the southern part of the State, he would say that the present system of United States Courts in this State does not accommodate the people as they should be accommodated. In Wisconsin, Kentucky, and in Illinois, there is a division of the United States Courts, and why can not Indiana have two courts? The Senate ought to go slow before instructing our Congressmen in this regard.

Mr. GREGG would favor retrenchment and reform, and should vote for the resolution.

Mr. DWIGGINS believed the people in the northern portion of the State were content with one Federal Court in the State, and thought there was no good reason for an increase.

Mr. DAGGY saw no necessity for two Federal Courts in this State, as only three or four months in the year are required to transact all the business that comes before the United States Court, as at present constituted.

Mr. GOODING insisted that Senators should not take the whereases to the resolution for granted, and that this resolution, binding the hands of Indiana's representatives in Congress, should not be passed by this body.

The concurrent resolution was adopted.

JOINT RULES.

On motion of Mr. TAYLOR, the joint rules adopted by the House of Representatives, for the government of the two Houses, were taken up, read and concurred in.

GOVERNOR'S MESSAGE.

The House concurrent resolution, ordering the printing of 8,000 copies of the Governor's message, 1,500 to be in the German language, being read—

Mr. SARNIGHAUSEN made an ineffectual motion that 2,000 copies be ordered printed in the German language.

The concurrent resolution was adopted without amendment.

STATE PRISONS.

The House concurrent resolution, directing Wardens of the State Prisons to make no further contracts for convict labor till after the adjournment of this session, and looking to the establishmont of a graded prison system, was read and concurred in.

The joint standing committees adopted on the part of the House were read.

DISTRICT COURT.

Mr. WILLIAMS moved to reconsider the vote by which the concurrent resolution of instruction to the Indiana Congressional delegation was passed, he indicating a desire to change it from a concurrent to a joint resolution.

The motion was agreed to.

On motion by Mr. WILLIAMS, the resolution was then passed, by yeas 30, nays 1.

On his further motion, the resolution was entitled "A joint resolution instructing our Senators and requesting our Representatives to vote against any measure in Congress to divide the State into two or more judicial districts."

PETITION.

Mr. FRIEDLEY, of Scott, presented a petition, which was referred to the appropriate committee without reading.

REPORTS FROM COMMITTEES.

Mr. MILLER, from the Committee on Roads, reported in favor of the passage of bill [S. 18] repealing the act authorizing the assessment of lands for plank, macadamized and gravel road companies.

The report was concurred in.

Mr. CAVE, from the same committee, reported in favor of the passage of bill 37, allowing viewers and reviewers of highways two dollars a day.

The report was concurred in.

RESOLUTIONS.

Mr. NEFF offered a resolution, which was adopted, that the Committee on Claims have power to send for persons and papers.

Mr. BOONE offered a resolution instructing the Committee on Organization of Courts to consider the propriety of redistricting the State for judicial purposes, so as to embrace some half dozen or more suggestions recited.

The consideration thereof was postponed till to-morrow at two o'clock p.m., a similar subject having heretofore been made the special order for that hour.

COMMITTEE NAME.

Mr. HAWORTH moved that the Committee on Emigration have added to its duties the subject of statistics, and that its title be amended accordingly.

It was laid over one day under the rules.

ABSENCE.

Leaves of absence were asked and obtained for several Senators till next week, and for the Committee on Benevolent Institutions for this afternoon.

A call of the Senate discovered thirty-six Senators as present and answering to their names.

NEW PROPOSITIONS.

Bills for acts were introduced, read first time and severally passed to second reading, as follows:

By Mr. THOMPSON, a bill [S. 48] for act to amend sections 1, 7 and 8 of Soldiers' Home act, and section 2 of act supplemental thereto.

By Mr. HOUGH, a bill [S. 49] for an to amend section 22 of the act for the corporation of towns, approved June 1852

By Mr. BOWMAN, a bill [S. 50] for act to define more correctly the bound line between Washington and C counties.

By Mr. TAYLOR, a bill [S. 51] for an to amend section 1 of the Supreme C act of May 1, 1852, making provisio five Judges.

By Mr. TAYLOR, a bill [S. 52] for an dividing the State into Supreme C Judicial Districts. [Five districts.]

And then the Senate adjourned till o'clock to-morrow.

THE

BREVIER LEGISLATIVE REPORTS

THIRTEENTH VOLUME.

INDIANA LEGISLATURE.

HOUSE OF REPRESENTATIVES.

THURSDAY, November 21, 1872.

The House met at 9 o'clock, a. m., the SPEAKER directing the reading of the journal of yesterday.

REPORTS FROM COMMITTEES.

Mr. WALKER, from the Committee on the Judiary, returned Mr. Wilson of Ripley's bill [H. R. 27] for an act concerning interest on judgments, and recommended its passage.

Mr. SHIRLEY returned the bill [H. R 15] to amend section 70 of the Justice's act of June 9, 1852, with an amendment: "Costs shall follow judgments on appeals from Justices." Concurred in, and these bills were passed the second reading and ordered to the engrossment and third reading.

Mr. MILLER returned the bill [H. R. 18] to amend section 13 of the act in relation to county treasurers from the Judiciary Committee with the recommendation that it be indefinitely postponed; which was concurred in.

Mr. WILSON of Ripley returned Mr. Given's bill [H. R. 7] to provide that Justices of the Peace shall have execlusive jurisdiction in certain cases of misdemeanor with amendment to insert the word "original" before "jurisdiction." The amendment was adopted, and the bill passed the second reading and was ordered to the engrossment.

Mr. CAUTHORN returned Mr. Wilson of Ripley's bill [H. R. 26] to amend section 9 of the Justice's act of June 9, 1852, with amendments; add the following: "Provided all suits shall be brought in the township where defendant resides, or in the township where the debt or contract was made." The amendment was adopted and so the bill passed to the engrossment and third reading.

Mr. BUTTERWORTH, from the Committee on Swamp Lands, returned his bill [H. R. 3] to repeal the corporation drainage act, and the supplemental act of 1871, recommending its passage. It was ordered to the engrossment, etc.

Mr. LENFESTY, from the Committee on Federal relations, returned the joint resolution instructing our Congressmen to support an act of Congress to equalize the bounties of soldiers and seamen in the war of the rebellion, eight and one-third dollars per month, recommending its passage. Concurred in and the resolution was ordered to the engrossment.

Mr GIFFORD, from the Committee on Cities and Towns, returned Mr. Shirley's State Printer repeal bill [H. R. 9], recommending that it be laid on the table. The repoat was concurred in.

THANKS.

Mr. WALKER submitted a preamble and resolution of thanks to the Judges of the Supreme Court for the use of their consultation room and law library, so kindly and generously tendered by them to the Committee on the Judiciary; which was adopted.

HUNTING AND SHOOTING.

Mr. FURNAS, from the Committee on Agriculture, returned his bill [H. R. 8] to prevent hunting and shooting on enclosed grounds without consent of owner, recommending its passage.

Mr. BAKER moved that the bill be referred to the Committee on Rights and Privileges.

Mr. FURNAS hoped this action would not be unnecessarily delayed. The bill has been examined with sufficient care. It provides simply to prevent shooting or hunting on enclosed grounds without consent of the owner. And whilst it is for the benefit of the farmer, even the sporting men themselves are in favor of it, because if it becomes a law, it will give them a legal right to hunt. A chief object is to guard against the reckless carelessness of hunting parties. Accidents are continually happening on this account of which he gave examples of fires occasioned in this way, and the consequent loss of property in his own neighborhood. He wanted to guard against any such danger of the loss of property. I have a little farm of 160 acres, and when I lie down at night I wish to be relieved from the apprehension of loss from the careless use of guns, which destroyed a hundred panels of fence for my neighbor. I do not believe that there is a farmer in my county who is not in favor of this legislation.

Mr. BAKER. My objection is that it would make a too stringent law. I question if such were the law, whether it would be safe for a man to be seen out with a gun. I think that while the farmer receives ample protection, the person hunting should also be protected. I desire the recommitment of the bill, that ample protection may be extended to both.

Mr. WALKER suggested that under such a bill it might be unlawful to discharge a gun at a mad dog. Whilst he was in favor of the object, if the bill does no more than its author intends, still he desired a fuller consideration.

Mr. CAUTHORN. I move to amend the motion to recommit, so that the committee be instructed to amend the bill by requiring that the complaint shall be made by the owner of the land.

Mr. WILLARD. I would like to amend the instructions for amendment so that the owner shall be required to post up notice that no hunting or shooting is permitted on his enclosures.

Mr. GIFFORD alleged the injury of farmers' stock in his county, through careless hunting and shooting by the young sharks, so that nobody can find out who does it. But because there might be a necessity for amendment, he was in favor of the recommitment of the bill.

Mr. WOODARD, believing that the bill has been carefully prepared, feared that if you attach these amendments, you will destroy its efficiency.

Mr. WILSON, of Ripley, concurred in both the proposed amendments. If the bill pass in its present shape, a man would be liable for hunting on the lands of non-residents (voice, "No, sir"), and he would be liable to prosecution, even if the owner of the land have no objection to the hunting, and consent were actually obtained. It would occasion needless harrassments.

Mr. BILLINGSLY. I am interested in this bill as a farmer. I know something about the effects of careless hunting. But I rather desire that the bill should be referred back to the same committee for amendment, so as to prevent shooting dogs on another's premises.

Mr. BUTTS spoke in favor of the bill and gave examples of the destruction of life and property by reckless shooting parties.

Mr. LEE also gave examples of annoyances of this class.

Mr. RENO. We need a law of this kind for protection. I know it would be very acceptable to the people.

Mr. RICHARDSON. I am opposed to the bill—not that I am forgetful of the interests of the farmers—for in my county they are not thus annoyed. I am opposed to it because it is against the interests of my people. They are infested with foxes, and raising up dogs to destroy them; and I can't see how these farmers can succeed in exterminating their foxes under such a law as this bill proposes.

Mr. BAXTER. I do not see the force of the gentleman's objection; because, if farmers want the foxes exterminated, they will be willing to give the premium for others to do it. I am a farmer, and I would do so, and invite the hunters to avail themselves of the privilege. A friend of mine lately brought home some very expensive sheep from Europe, and the other day some of these shooters came along, and seven of his sheep were killed.

Mr. COLE. The farmers are very much annoyed in this particular, and the bill would cut off a source of idleness. These hunters are not benefitted by their sport; it is mere idleness.

Mr. TEETER. The laws already give ample and complete remedy against the careless use of fire-arms—if that is the only object of the bill. I apprehend that if the bill pass in its present loose form

any proper legal construction will show that it can have no effect. I think it should have amendments, for more careful guarding of the interests involved.

Mr. LENFESTY. I am in favor of the passage of the bill; and I take higher ground In the first place, the privilege we have heretofore granted to the hunter to hunt on the premises of the farmer is only a privilege; and it was tolerable whilst they stood in forests of woods; but now farms are cleared, and there is but little woodland, and the game that is found therein is as much the property of the landowner as the land itself. Its flocks of quails and the schools of fish in his brooks are as much his property as his stock. But now your hunter will go within fifty yards of the owner's residence and take this game. While there may be objections to the bill, I do not believe that the committee would amend it so as to make it better; and I believe the proposed amendments would destroy it. I therefore move to lay the amendments on the table.

Mr. CAUTHORN demanded a division of the question.

The first question being on Mr. Willard's amendment to the amendment, it was laid on the table.

The amendment and the original motion to refer were also tabled, and then the bill was ordered to the engrossment.

Mr. FURNAS, from the Committee on Agriculture, returned Mr. Wood's bill [H. R. 44] to repeal the dog tax law, recommending its indefinite postponement. It was concurred in.

NEW PROPOSITIONS.

The SPEAKER now proceeded to the call by counties and districts, for original propositions.

Mr. HELLER submitted an order (which was adopted) that one copy each of the Journal and the Sentinel be furnished to each member, unfolded.

Mr BARRETT, a bill [H. R. 82] to repeal the fish law of February 22, 1871.

It was referred to the Committee on Rights and Privileges.

Mr. GIFFORD, a bill [H. R. 83] to provide for the health and safety of persons employed in the coal mines of Indiana. [It requires maps to be filed with the county Auditor and duplicates to be kept in offices of coal mining companies showing boundaries of mines and direction and deflection of veins, together with amended maps to be filed yearly showing progress of work in mines; requires that notice be given of the abandonment of mines; provides that where more than ten miners are employed in one shaft, an extra escape shaft shall be provided, separated from the working shaft at least one hundred feet; requires that ample means of ventilation shall be secured, and that all shafts shall be so constructed as to insure them against danger from fire; requires that signals shall be provided and safe means of hoisting secured; forbids the employment of children under twelve years of age, or the employment of any person as engineer in charge of hoisting apparatus who is not a competent or sober man; and prohibits employes from ascending or descending on cars loaded with coal, or the hoisting of coal while operatives are ascending or descending.] It was referred to a select committee consisting of Messrs. Gifford, Schumuck and Lee.

Mr. GIVEN, a bill [H. R. 84] to provide for the assessment and collection of taxes on the gross amount of premiums received by any foreign insurance company, whether life, fire or river insurance company, and providing penalty.

It was referred to a special committee: Messrs. Gifford, Schmuck and Lee.

Mr. MILLER, a preamble reciting that a resolution of the last session was passed the House of Representatives, January 26, 1871, requesting the Governor to take charge of the suit then pending upon the relation of John C. Robinson against the Indianapolis and Terre Haute Railroad Company, for perhaps a million dollars pertaining to the school fund; and that the journals of the House do not show, etc.; therefore,

RESOLVED, That the Governor be requested to inform this House what steps he has taken in said litigation, and what legislation, if any, is necessary to enable the State to recover said school money.

It was adopted.

Mr. MILLER, a bill [H. R. 85] to amend sections 10 and 11 of the Divorce Act of May 13, 1852.

Mr. MELLETT, a bill [H. R. 86] for the protection of certain birds therein named, and their eggs, [sparrow, robin, blue-bird, martin, thrush, mocking-bird, swallow, meadow-lark, cat-bird, oriole, red-bird, wren].

It was referred to the Committee on Agriculture.

Mr. MELLETT, a bill [H. R. 87] to amend the act of March 6, 1865, to provide a general system of common schools.

It was referred to the Committee on Education.

Mr. LENFESTY, a bill [H. R. 88] to provide for the registration of births, marriages and deaths in the State of Indiana.

It was referred to the Committee on Statistics and Emigration.

Mr. ISENHOWER, a bill [H. R. 89] to amend sections 46 and 87 of the act of June 17, 1852, providing for the settlement of decedents' estates.

Mr. RUMSEY, a bill [H. R. 90] touching public grounds, vacant and disused, and matters therewith connected. [May be occupied for school purposes.]

It was referred to the Committee on Rights and Privileges.

Mr. COBB, a bill [H. R. 91] to amend the act concerning promissory notes, bills of exchange, etc., approved May 12, 1852, and the amendatory act of March 7, 1861. [Notes payable in bank shall be negotiable as inland bills of exchange.]

Mr. BAXTER, a bill [H. R. 92] to amend the act to establish a House of Refuge for the correction of juvenile offenders, approved March 8, 1868, and repealing the 11th section of said act.

It was referred to the Committee on Reformatory Institutions.

By Mr. BAXTER, a bill [H. R. 93] to amend section 6 of the act to enable persons whose wives are insane, to convey real estate, approved May 2, 1867.

It was referred to the Judiciary Committee.

Mr. WYNN, a bill, [H. R. 94] to divide the State of Indiana into Congressional Districts. He made a motion, ineffectually, to lay on the table and print.

Mr. BRANHAM submitted a joint resolution of instructions to Congressmen to oppose the passage of the bill pending in Congress to divide the State of Indiana into two United States Judicial Districts. Mr. Branham said he was satisfied neither the interest nor the convenience of the people of the State requires the proposed division of the State for a Southern Federal District for the State of Indiana. The southern part of the State has now a Federal Court at New Albany and Evansville, when the convenience of the people require it.

The proposition was adopted.

Mr. CAUTHORN submitted a resolution for an order (which was adopted) that the Senate be respectfully requested to amend the concurrent resolution of yesterday on the matter of the election of United States Senators so far as it intimates that the election shall be in conformity with act of Congress.

Mr. CAUTHORN, a bill [H. R. 95] to authorize cities and towns, incorporated under the authority of the State, to make surveys and plats thereof, and to authorize such cities and towns to authorize any such survey or plat.

It was referred to the Committee on Cities and Towns.

Mr. EDWARDS of Lawrence, a bill [H. R. 96] to repeal the act to authorize aid for the construction of railroads by counties and townships, taking stock therein and making donations thereto, approved May 12, 1869.

It was referred to the Committee on Railroads.

Mr. BILLINGSLEY, a bill [H. R. 97] to amend the forty-seventh section of the act providing for the opening, vacating and change of highways, approved June 17, 1852. [Viewers and reviewers $2.50 per day.]

It was referred to the Committee on Roads.

Mr. JOHNSON, a bill [H. R. 98] to make certain specific appropriations, therein named. [To repay money borrowed for the Normal School, the State prison, the House of Refuge, etc.]

Mr. KING submitted a concurrent resolution (which was adopted on the part of the House) to the effect that the wardens and directors of the State prisons be instructed not to extend the time of contracts for letting the convict labor, and not to make new contracts for letting convict labor till after the adjournment of the regular session of the present General Assembly, and that the prison committees of the two houses be a joint committee, and that, as such, they be instructed to consider the propriety of establishing a system of graded prisons; and report by bill or otherwise.

Mr. KING, a bill [H. R. 99] to authorize incorporated cities and towns of 30,000 inhabitants, or over, to make loans and issue bonds [ten per cent. on the taxable property].

Mr. KING, a bill [H. R. 100] relative to the laying out, opening and altering of streets, alleys and highways, and straightening or altering water courses, and providing a commission for the assessment of damages, and providing for the collection of the same, and prescribing the duty of the city officers in relation thereto.

It was referred to the Committee on Cities and Towns.

Mr. SATTERWHITE, a bill [H. R. 101] to protect the State from empyricism in the medical profession.

Mr. SHIRLEY, a bill [H. R. 102] requiring Judges having jurisdiction in probate matters, to examine annually as to the solvency of executors, administrators and guardians and the surety or sureties of either, etc.

It was referred to the Judiciary Committee.

Mr. TINGLEY, [H. R. 103] to amend sections one, seven and eight of the act for the establishment of a home for disabled soldiers and seamen, approved March 11, 1867, and the supplemental act of May 14, 1867.

It was referred to the Committee on Benevolent Institutions.

Mr. REEVES submitted the following:

RESOLVED, That the Committee on Roads be authorized to employ a Clerk and Janitor, to be retained only so long as in the judgment of said Committee his services may be deemed necessary.

It was rejected.

Mr. CAUTHORN suggested that the joint resolution introduced this day by the gentleman from Jefferson (Mr. Branham) was passed by a *vive voce* vote, whilst the constitution require that it shall be by yeas and nays.

The SPEAKER. I think the gentleman said it was a concurrent resolution.

SCHOOL DIRECTORS.

Mr. BUTTS submitted a resolution which was adopted, that the Committee on Education inquire into the propriety of an act requiring the election of three common schools Directors instead of one, whose duty it shall be to employ teachers, dismiss them from service, etc.; and report by bill or otherwise.

CHAPLAIN SERVICE.

Mr. HOLLINGSWORTH submitted the following:

WHEREAS, this House passed a resolution that on assembling each day there shall be ten minutes devoted to divine worship; therefore

RESOLVED, That in the absence of a minister at the opening of the morning session, the Speaker shall announce that any person present willing to offer vocal prayer shall be permitted to do so.

Mr. GIFFORD submitted a motion for a recess till two o'clock p.m.; but,

On motion of Mr. LEE, the House adjourned till to-morrow morning, nine o'clock.

THE

BREVIER LEGISLATIVE REPORTS

THIRTEENTH VOLUME.

INDIANA LEGISLATURE.

IN SENATE.

FRIDAY, November 22, 1872.

The Senate met at ten o'clock. a. m., the Hon. GEORGE W. FRIEDLEY in the chair.

The Secretary's minutes of yesterday's proceedings were read, corrected and approved.

THE LAW OF DIVORCE.

Mr. BEESON offered a memorial of the yearly meeting of the Society of Friends of Indiana, as follows;

To the Senate and House of Representatives of the State of Indiana:

The Memorial of Indiana Yearly Meeting of the Religious Society of Friends, held at Richmond, from the 25th day of ninth month, to the first of tenth month, inclusive, 1872, respectfully represents:

That as a Religious Society we consider marriage an ordinance of God, and not a mere civil contract, nor a mere human compact, devoid of religious obligations.

The original law of marriage, which is found in the second chapter of Genesis, describes a union, such as could originate from no human authority.

Our Lord and Saviour, Jesus Christ, when asked by the Pharisees, "Is it lawful for a man to put away his wife for every cause," re-enacted this law and ordinance for all subsequent time. "Have you not read that he which made them in the beginning, made them male and female, and said. For this cause shall a man leave father and mother and shall cleave to his wife, and they twain shall be one flesh? What, therefore, God hath joined together, let not *man* put asunder." Matt. xix. 4, 5, 6. "And I say unto you, whosoever shall put away his wife except it be for fornication, and shall marry another, committeth adultery; and whoso marrieth her which is put away, committeth adultery."—Matt. xix. 9.

The legislation of all Christian Nations and States should be based upon Christian principles. Hence, while the civil law may properly *solemnize* the marriage contract, it cannot properly *dissolve* it, except for the cause which the Divine Law Giver has himself pointed out.

We are advised that there are seven statutory grounds of divorce in the laws of our State:

1rt, Adultery; 2d, Impotency; 3d, Abandonment for one year; 4th, Cruel treatment of either party by the other; 5th, Habitual drunkenness by either party, or the failure of the husband to provide reasonable support for his family; 6th, The conviction of infamous crime subsequent to the marriage; and 7th, "*Any other cause* for which the *Court* shall deem it proper that a divorce shall be granted."

We respectfully submit, that all these enactments, except the first, are contrary to the teachings of Christ and his Apostles; some of them actually *encourage* divorce, by offering it as a premium for crime; and the 7th is unknown to "Common Law," and grants such unlimited powers to the Court, that by expunging the word "other" there would seem to be no need for the six preceding specified causes for divorce.

So much shameful fraud and corruption have characterized the administration of our divorce laws, and many innocent persons have been so cruelly wronged thereby, that great odium attaches to our otherwise fair record and reputation as a State.

The inevitable tendency of such enactments is, to unsettle the belief of the people in the religious obligations of marriage, and to degrade it to a mere contract between the parties, and thus, not only to destroy its sacredness, but also its permanence. For, as divorces increase, marriages are lightly contracted, and as lightly spurned; licentiousness increases, the public morals are corrupted, and the purity of society and the affections and sacredness of home are ruthlessly invaded.

We do, therefore, respectfully, but *earnestly*, petition your honorable body to repeal all the Divorce Laws of our State, except that which provides for a legal separation of man and wife for the crime of adultery.

Signed, by direction, and on behalf of the meeting aforesaid.

CHARLES F. COFFIN,
Clerk of the Men's Meeting.
EMILY J. HARRIS,
Clerk of the Women's Meeting.

It was referred to the Committee on Rights and Privileges of the Inhabitants of the State.

PETITIONS AND MEMORIALS

were presented and referred to appropriate committees, to wit:

By Mr. BEESON, a communication from the Doorkeeper in reference to the selection of rooms for the use of committees of the Senate—all but one in Circle Hall.

By Mr. FRIEDLEY, of Scott, two claims, one from the Sentinel and the other from the Journal office, for papers furnished and work done during the general session of 1871.

REPORTS FROM COMMITTEES.

Mr. BIRD returned from the committee his canal repair bill, with a favorable recommendation thereon. His constituents were very much interested in the keeping up of the canal running through their county, as it supplies water to propel machinery, and for use in case of fires; but if Senators desired time to consider the provisions of this bill, he was willing it should lie over, though it was desirable to have it advanced on the files as soon as practicable.

Mr. RHODES desired that the bill should be referred to the Committee on Canals.

Mr. SARNIGHAUSEN moved that the bill be referred to the Committee on Canals, so that Senators may be satisfied with its provisions.

Mr. BIRD objected to the reference, and moved, ineffectually, to suspend the order of business, that the bill may be read the second time now.

RESOLUTIONS.

Mr. DITTEMORE offered a resolution, which was adopted, that the elective officers of the Senate be allowed the same papers, wrapped and stamped, as are allowed members of the Senate.

Mr. DWIGGINS offered a resolution requesting the Auditor of State to inform the Senate of the amount of swamp-land fund now on hand.

It was adopted.

Mr. HAWORTH offered a resolution to pay the firemen five dollars a day for work done four days before the opening of this session and one after, which was adopted by yeas 27, nays 14.

Mr. HALL offered a resolution, which was adopted, instructing the Secretary to ascertain the names of evangelical ministers of this city who will offer prayers at the opening of the sessions, and notify them by mail two days before their services are required.

A message was received from the Governor, transmitting a communication and memorial from the State Bar Association.

PROHIBITORY LIQUOR LAW.

Mr. ORR offered the following:

RESOLVED, That the Committee on Temperance inquire into the expediency of passing a law prohibiting the granting of license to sell intoxicating liquors as a beverage, and report by bill or otherwise.

It was adopted.

HOUSE OF REFUGE.

Mr. BEESON moved to suspend the order of business that the bill [S. 44] amending the act establishing a House of Refuge be read the second time now.

The motion was agreed to, and the bill was read by sections. On motion by Mr. Beeson, it was referred to the Committee on Reformatory Institutions.

MEMBERS' PER DIEM.

Mr. HARNEY offered a resolution that the Committee on Fees and Salaries be instructed to report a bill making the pay of members eight dollars a day—deducting therefrom a sufficient amount to pay the employes of both Houses and for the stationery used.

On motion by Mr. BROWN, it was laid on the table.

ORDER OF BUSINESS.

Mr. ARMSTRONG called up his motion of yesterday, amending the rules so that when the introduction of bills shall be in order the Secretary shall call the roll, and that each Senator may have an opportunity to respond before the order is passed over. On motion of Mr. Brown, it was laid on the table.

COMMITTEE NAMES.

Mr. HAWORTH called up his resolution declaring that the Committee on Emigration shall hereafter be known as the Committee on Emigration and Statistics.

THE JUDICIARY.

On motion of Mr. GREGG, a message from the Governor, transmitting the action of the bar of the State on the subject of the reorganization of the Courts of the State, was taken up, and its consideration postponed until two o'clock.

ELECTION OF UNITED STATES SENATOR.

Mr. HOUGH moved to take up the concurrent resolution in regard to the election of the United States Senator next Tuesday, a communication having been received from the House requesting the Senate to amend the resolution so as to provide that the election shall be held according to law.

Mr. BROWN said the resolution had passed both houses, and the request of the House was entirely superfluous.

No action was taken on the motion.

NEW PROPOSITIONS.

Bills for acts were introduced, read the first time and severally past to the second reading.

By Mr. GLESSNER, a bill [S. 53] for an act creating the Twenty-sixth Judicial District, composed of the county of Shelby.

By Mr. FRIEDLEY, a bill [S. 54] for an act to divide the State of Indiana into Congressional Districts (thirteen) to be composed severally of the following counties:

First District—Posey, Vanderburg, Warrick, Spencer, Gibson and Pike.

Second District—Sullivan, Knox, Daviess, Green, Martin, Orange Crawford and Dubois.

Third District—Harrison, Clark, Floyd, Washington, Jackson, Brown and Bartholomew.

Fourth District—Ohio, Switzerland, Jefferson, Scott, Jennings, Ripley, Decatur and Rush.

Fifth District—Dearborn, Franklin, Fayette, Union, Wayne and Randolph.

Sixth District—Johnson, Shelby, Hancock, Henry, Delaware, Madison and Grant.

Seventh District—Marion, Morgan, Hendricks and Putnam.

Eighth District — Lawrence, Monroe, Owen, Clay, Vigo, Parke and Vermillion.

Ninth District—Boone, Clinton, Montgomery, Fountain, Warren and Tippecanoe.

Tenth District — Laporte, St. Joseph, Starke, Porter, Lake, Newton, Benton, White, Carroll, Jasper and Pulaski.

Eleventh District—Hamilton, Howard, Tipton, Cass, Miami, Fulton and Wabash,

Twelfth District—Jay, Blackford, Wells, Adams, Huntington, Whitley and Allen.

Thirteenth District—Kosciusko, Marshall, Elkhart, Lagrange, Noble, Steuben and DeKalb.

The bill is the same as that introduced in the House by Mr. Wynn yesterday.

By Mr. STEELE, a bill [S. 55] for an act to provide for the relocation of county seats, and repealing all laws in conflict therewith. (Where two-thirds of the legal voters shall petition for relocation, and procure a lot of ground not less than two and one-fourth acres, and pay an architect $50, etc.) [To provide for the relocation of county seats where two-thirds of the legal voters shall sign a written petition for the same, and shall procure conveyances of two lots, one of not less than two acres as a site for the court house, and the other of not less than one-quarter of an acre as a site for a county prison. Upon a compliance with these conditions, the County Commissioners shall proceed to erect county buildings upon such lots provided that the cost of the same shall not exceed $15,000, unless requested by the petitioners.]

By Mr. DWIGGINS, a bill [S. 56] for an act to amend sections 21 and 27 of the town incorporation act of June 11, 1852, which 22d section was amended and approved March 2, 1855. [To amend the act for the incorporation of towns so as to confer upon the Board of Trustees power to suppress gambling, houses of ill-fame, to license, regulate and restrain auction establishments, traveling peddlers, traveling exhibitions, and the sale of intoxicating liquors, provided that where a license to sell intoxicating liquors is granted, the licensee shall pay a fee not exceeding $100. It also provides, that in case licensee refuses to pay his license, the same may be collected before any court of competent jurisdiction.]

The Senate then adjourned until two o'clock, p. m.

AFTERNOON SESSION.

The Senate met pursuant to adjournment, President Friedley in the chair.

Mr. GLESSNER, by leave, introduced a bill [S. 57] for an act to repeal the act to prevent the breaking of a quorum of the General Assembly, approved February 7, 1867, which was read the first time and passed to the second reading.

THE JUDICIAL SYSTEM.

This being the hour for the consideration of the special order, Mr. Dwiggins's concurrent resolution, for the appointment of a joint committee of three, one Senator and two Representatives, from each Congressional district, to consider the subject and report a bill for a reorganization of the judicial system of the State, this committee to have authority to sit during the interval between the special and regular sessions and instructed to report to the regular session in January next, was taken up together with the proposed substitute therefor, offered by Mr. Glessner, which would reduce the number of the committee to eleven—four from the Senate and seven from the House.

On motion by Mr. DWIGGINS, a lengthy memorial from the Bar Association of Indiana, setting forth the necessity for reorganization of the courts in this State

was read. The memorial sets out at length the evils resulting from the present system, and asks that the number of Supreme Judges be increased to five, and to authorize the employment by the judges of secretaries. It also calls attention to the inadequate salaries paid the judges and prosecuting attorneys, asks for an increase of the same, and submits a statement of the salaries paid to judges in the different States. The memorial also makes numerous suggestions in regard to the method to be pursued in the trial of cases. It was transmitted to the Senate this morning through the Governor by the hand of the Executive Messenger, Captain John M. Commons.

Mr. GOODING presented a petition from the attorneys of Vanderburg county, praying for an increase of the salaries of executive and judicial officers. It is signed by leading lawyers and prominent citizens of Vanderburg, Posey and Perry counties, asking that measures be taken to carry the recommendations of the Governor's message on this subject into effect.

The resolution of Mr. BOONE to instruct the Committee on Organization of Courts to inquire into the expediency of dividing the State into convenient judicial districts, providing for a criminal court in each county, etc., which had been made a part of the special order, was also read.

The question was then on the adoption of Mr. Glessner's substitute.

Mr. GLESSNER explained that the original resolution requires the committee to bring in a bill for the reorganization of the judicial system. It is imperative. The committee would consist of thirty-three members. It would be too large and altogether unwieldy. The substitute authorizes the appointment of a committee to consist of but eleven members. It would require but a few days for the members from each of the several districts to get an expression from almost every member of the bar, which could be placed before the committee and aid greatly in framing a bill that would meet the demands of the State in this regard. In the county of Shelby the Circuit and Common Pleas Courts are eighteen months behind their business. Within a short time, without doubt, a constitutional convention would be called, but, for the present, the Legislature should take the shortest way to relieve the wants of the people. He favored the adoption of the substitute, which requires the committee to report at an early day.

Mr. BOONE moved to strike out the substitute and insert his resolutions in lieu, which refers the matter to the Committee on Organization of Courts of Justice. He would be willing to consult members of the bar throughout the State, but it is conceded on all hands that a revision of the judicial system is necessary. The people urgently demand relief and in many counties the delay experienced in the courts amounts almost to a denial of justice.

Mr. DWIGGINS concurred in the expression that members of the bar were not alone interested in this matter. It affected the people of the whole State. This subject has been discussed by several past legislatures; it has been referred to Committees on Organization of the Courts, but no committee of the Senate can give the matter sufficient attention unless they obtain leave of absence for days and weeks at a time. The recommendations set forth in the memorial from the Bar Association, read at the Secretary's desk this afternoon, were well put and should be acted upon at once and without delay. Let this Legislature do what it can to relieve our constituency by reforming the judiciary system of the State, and thus afford general relief. The present judiciary system was a crying evil in the State, and required immediate action. He hoped the substitute would not prevail, because the committee provided for in it would not have time to perform the business marked out for it.

Mr. DITTEMORE favored the amendment of Mr. Boone, because the matter properly belonged to the Committee on Organization of Courts, and because if either the original resolution or the substitute of Mr. Glessner was adopted, and the committees named therein entered upon their duties during this session, the Senate would be left without a quorum. He thought the Committee on Organization of Courts should have this matter in their own hands, and he should vote for the resolutions proposed by the Senator from Boone (Mr. Boone.)

Mr. ORR could not favor the original resolution, because the committee proposed is too large, and because it proposes that the committee shall sit after the adjournment of this session.

Mr. STEELE did not feel like favoring the organization of a committee so large as proposed in the resolution of the Senator from Jasper [Mr. Dwiggins], and especially did he oppose the sitting of the committee when the Legislature should not be regularly in session. He preferred to see this subject go to the regular committee appointed to consider it. The reform was needed at once. He was in favor of sub-

mitting the matter to the committee to which it regularly belonged—that on the Organization of Courts—and if they failed it would be time enough to try another committee.

Mr. BOONE supposed there would be a law passed this session providing for the completion by a succeeding session of any business left unfinished by this.

The substitute [Mr. Boone's] was adopted without a division, in lieu of that proposed by the Senator from Shelby [Mr. Glessner]. The resolution as offered by the Senator from Boone [Mr. Boone] was then adopted.

On motion by Mr. O'BRIEN, the papers and documents on this subject were also referred to the Committee on the Organization of Courts of Justice.

STATE PRINTING.

The PRESIDENT announced that he had received from the State Auditor advance sheets of so much of his Report as related to the subject of State printing, in accordance with a resolution of the Senate; which were directed to be placed on the desks of members.

NEW PROPOSITIONS.

Bills for acts were introduced, read the first time and severally passed to the second reading, as follows, except in the case named:

By Mr. DWIGGINS, a bill [S. 58] for an act to repeal an act of June 18, 1852, to enforce the 13th article of the Constitution of Indiana. [The last section declares that whereas the above act is a disgrace to the State, an emergency exists for the immediate taking effect of this act.]

By Mr. HAWORTH, a bill [S. 59] for an act to amend section 16 of the county and township railroad aid act of May 12, 1869. [The amendment provides that no such subscriptions or donations shall be made or be valid until the railroad shall have been permanently located, the track laid and one train shall have passed over it.]

By Mr. ORR, a bill [S. 60] for an act regulating interest on all judgments or decrees, and repealing all conflicting acts. [Interest on judgments and decrees to be from date of judgment, at the rate mentioned in the original contract, not exceeding ten per cent., and if no rate be agreed on, then at six per cent.]

By Mr. THOMPSON, a bill [S. 61] for an act to protect society against dangerous consequences resulting from the pardoning of persons convicted of felony, on the plea of insanity; to protect society against the danger ensuing from setting at liberty persons who may have been acquitted of murder, manslaughter, robbery, arson, rape, burglary, or larceny, upon the ground of insanity. [The bill provides that, whenever any person shall be prosecuted for any murder, manslaughter, robbery, arson, rape, larceny, burglary, assault, or assault and battery with intent to commit any felony, or any other felony, and the plea of insanity shall be set up in defense, it shall be the duty of the court or jury trying the defendant to find specifically whether such defendant was or was not insane when the alleged offense was committed, and whether such insanity was impulsive, homicidal or moral, or not, and in case the court or jury shall find the defendant to have been insane when the offense was committed, he or she shall be found not guilty thereof. Any person acquitted in any of the cases heretofore mentioned, shall be committed to some secure and strong ward of the hospital for the insane for the term of two years, and as much longer as may be necessary to complete the cure of such defendant, but such defendant shall be kept wholly separate and apart from all other patients in such hospital. It is expressly provided, further, that when any such person shall be acquitted of any charge of murder, manslaughter, robbery, or rape, by reason of the impulsive, homicidal or moral insanity of such person, then such person, upon his or her acquittal, shall be securely confined in such strong ward in said hospital for the insane during his or her natural life.

By Mr. DAUGHERTY, a bill [S. 62] for an act to amend the 1st, 2d, 3d, 4th, 5th, 6th, 7th, 8th, 9th, 10th, 11th, 12th and 13th sections of the act of February 12, 1851, incorporating the town of Bluffton, in Wells county, Indiana, and also to repeal section 11 of said act.

By Mr. SARNIGHAUSEN, a bill [S. 63] for an act in relation to promissory notes, bank notes and bills of exchange, and to designate holidays to be observed in the payment of the same.

By Mr. HAWORTH, a bill [S. 64] for an act for the collection and publication of statistics. [The Secretary of State to collect information and prepare tables of statistics, concerning agriculture, mining, manufacture, education, crime, public taxes and expenditures, corporation, and vital and social statistics, and make reports to the Governor on or before December 1 in each year, and providing that all proper officers shall aid the Secretary in the collection of the statistics.]

By Mr. THOMPSON, a bill [S. 65] for an

granting the consent of the State of iana for the purchase by the United es of certain lands in the city of India- olis, not exceeding one acre, for the rpose of building thereon a public build- for a P. O. and other public purposes, ceding jurisdiction over the same.

On motion of Mr. THOMPSON the con- tional restriction was dispensed with— s 29, nays 0—and the bill was read the nd time and passed to the third read-

By Mr. SLEETH, a bill [S. 66] for an act mpower the Board of Trustees of in- orated towns to regulate the licensing e sale of intoxicating liquors and the ing of billiard tables within their its. [To empower Boards of Trustees corporated towns to levy and collect license fee not exceeding double the ount required for a State license of each son selling intoxicating liquors, and not e than $25 for each billiard table kept rent or hire.]

By Mr. GOODING, a bill [S. 67] for an to amend section 29 of the Justices' of June 9, 1852. [To amend the act ting to Justices of the Peace, so as to provide that no change of venue shall be allowed unless the applicant shall pay, or secure the payment of, all costs occasioned by the change.]

By Mr. RHODES, a bill [S. 68] for an act to amend the second section of the act creating the Twenty-third Common Pleas District.

By Mr. SARNIGHAUSEN, a bill [S. 69] for an act to authorize and empower incorporated cities owning real estate to sell and convey such real estate as the Common Councils of such cities may deem expedient.

At this time a large number of leaves of absence were obtained.

On motion by Mr. SLEETH, the vote adopting a resolution of this morning, directing the Secretary of the the Senate to ascertain what evangelical ministers would attend and open the daily sessions of the Senate with prayer, was reconsidered, and after being amended so as to strike out the word "evangelical," was again adopted.

The Senate then adjourned till ten o'clock to-morrow.

THE

BREVIER LEGISLATIVE REPO

THIRTEENTH VOLUME.

INDIANA LEGISLATURE.

HOUSE OF REPRESENTATIVES.

FRIDAY, November 22, 1872.

The House met at nine o'clock a. m. Prayer by the Rev. Mr. Edson, of the Second Presbyterian Church.

A message from the Senate announced the passage of the Session Expenses bill [H. R. 33], a joint resolution of instructions against the passage of the bill in Congress for another United States Judicial District for the State, and the concurrent resolution that passed the House yesterday in relation to prison convict labor and a system of graded prisons. Also, the House concurrent resolution to print 8,000 copies of the Governor's Message, including 1,500 in German; 1,000 to be reserved for the use of the Governor, and the remainder to be distributed pro rata among the members.

On motion of Mr. BUSKIRK, the reading of the journal of yesterday was dispensed with.

ABSENCE.

Mr. CAUTHORN presented the credentials of Stephen D. Dial, a Representative from Warrick county, who came forward and took the oath, administered by the Speaker.

The SPEAKER stated that Mr. Dial's absence hitherto had been on account of sickness in his family, and that on this account he still desires leave of absence indefinitely. The leave was granted.

Temporary leaves of absence were granted to Messrs. Cline, McKinney, Barrett and Gregory.

REPORTS FROM COMMITTEES.

Mr. WALKER, from the Judici mittee, returned Mr. Hardesty's R. 54] to prescribe the numbe jurors necessary to find a verdi cases, recommending its indefi ponement. He also returned M man's bill [H. R. 65] to author cuting attorneys, in certain prosecute State pleas before recommending that it be laid on Also, that Mr. Glasgow's promis bill [H. R. 79] be indefinitely p that Mr. Bowser's two months emption bill [H. R. 12] be in postponed; and that Mr. Busk band and wife witness bill [H. indefinitely postponed; which were severally concurred in.

Mr. WILSON, of Ripley, Judiciary Committee, retur Schmuck's bill [H. R. 43] to act for the redemption of real etc., with amendment striking o viso, and inserting: "Provided, That this act shall not apply t decrees of sale made on contr time this act takes effect." The concurred in, and so the bill wa to the engrossment.

Mr. JOHNSON returned Mr. son's bill [H. R. 40] to repeal t viding for the redemption of real etc., recommending its indefi ponement.

Mr. BUSKIRK returned Mr. bill [H. R. 28] defining the exte jurisdiction of Common Pleas in

mmending its indefinite postponement.
e reports were concurred in.

Mr. WILSON, of Ripley, returned Mr. ker's county seat and county buildings endment bill [H. R. 81], recommending passage. It was ordered to the engross-nt.

Mr. OFFUTT, from the Committee on Organization of Courts, returned Mr. ell's bill [H. R. 49] to create the enty-second Judicial Circuit. It was ered to the engrossment.

Mr. GLASGOW returned Mr. Branham's [H. R. 72] for a Twenty-ninth Criminal cuit Court, recommending its passage. was ordered to be engrossed.

Mr. COWGILL returned Mr. Lenfesty's [H. R. 66] to amend section 207 of the ctice act, recommending indefinite post-nement.

The report was concurred in.

Mr. GIVEN, from the Committee on ucation, returned Mr. King's bill [H. R.] to appropriate $8,000 for Indiana Uni-sity, recommending its passage. It was ered to the engrossment.

Mr. CAUTHORN asked and obtained animous consent for his motion (which vailed) to take up Mr. Furnas' bill R. 8] to regulate hunting, and that it referred back to the committee with in-ructions to apply Mr. Cauthorn's amend-nt.

Mr. CLAYPOOL, from the Committee County and Township Business, re-ted Mr. Kirkpatrick's bill [H. R. 69] in tion to the settlement of Supervisors h Township Trustees, recommending passage. It was ordered to be engrossed.

The Chairman of the Committee on Mi-age and Accounts reported as to the ge of each member of the House; ch was read and concurred in.

Mr. GIFFORD, from the Committee on ds and Towns, returned Mr. Cauthorn's [H. R. 95] authorizing cities and towns make and authorize their maps and ts, recommending its engrossment. The rt was concurred in.

Mr. WILLARD returned Mr. King's [H. R. 99] to authorize cities and towns 0,000 inhabitants and over to make ns and issue bonds, with the committee endment, inserting 10,000 in place of ,000. The amendment was adopted and e bill ordered to the engrossment.

Mr. FURNAS returned his hunting and oting bill [H. R. 8], with the Cauthorn endment: "Provided that no prosecu-n shall be commenced under the pro-ions of this act, unless the same be com-enced by the occupants or owner of the land," etc. The amendment was adopted and the bill ordered to the engrossment.

PER DIEM OF MEMBERS OF THE GENERAL ASSEMBLY.

On motion of Mr. CAUTHORN the order of business was suspended and Mr. Wilson of Ripley's eight dollars per diem amendment bill [H. R. 73] was withdrawn from the committee and taken up for consideration, the question being on the engrossment.

Mr. HELLER said because the bill conflicts with the 29th section of the third article of the constitution, by providing for an increase of the per diem of members of the General Assembly, and that it shall be in force from and after its passage, he would move that it be laid on the table. But he withheld the motion for debate.

Mr. COBB said if the bill were to pass as it reads, with the emergency clause, it would give the increased per diem from the commencement of the regular session. If passed without that clause, it would not take effect till the publication—some time next June—so as to affect the pay of the members of the next General Assembly.

Mr. CAUTHORN did not think the constitutional objection well taken. The Constitution does not prohibit the General Assembly from increasing their compensation, any further than that they shall not increase it during the session at which the bill is passed. It does not prevent us from increasing our compensation during our term of office.

Mr. BUTTERWORTH. If our fathers served here for $3 a day, and if they lived here in war times for $5 a day, it seemed to him that at this time of money stringency we need not increase the amount. He was for retrenchment and economy.

Mr. THAYER considered that the State of Indiana is as able to pay her Representatives as fair a compensation as any individual would pay his lawyer. There were bills before the House to increase the pay of nearly every important officer of the State. The Governor has been allowed but a pittance, and the Judges of the Supreme Court have given their time to the people on a salary that would not well support a small family. He hoped members would not be affected with the mistaken idea of retrenchment in this matter, but consider the question maturely, and make the pay consistent with the labor, responsibility and dignity of the office.

Mr. WILLARD proposed to amend so as to avoid the constitutional question: Strike out the words "from and after its passage," in the second section, and insert

these in lieu: "from and after the first day of January, 1873."

Mr. WALKER. There are but two ways in which the time can be designated when an act of legislation shall take effect; the one by an emergency clause, and the other by the act of publication. On his motion the proposed amendment was laid on the table.

Mr. MILLER thought the State would be saving money by increasing the per diem to $8, and cutting off perquisites.

Messrs. Cole and Clark favored the bill.

Mr. LENFESTY thought it unfortunate that the bill had been sprung at this time, and regretted the favor it seemed to meet from Republican members. There were plenty of men who are willing to serve at the present compensation. The people would not look at this matter as members might. If members were required to furnish their own stationery and papers, they would write but few letters, and send but few papers to their constituents. He did not want this body to acquire a name for extravagance. This General Assembly would be expected to make liberal appropriations to our benevolent institutions, and he would favor such legislation, but would oppose this extravagance.

Mr. HOYER thought the people were ready to increase the pay of members. He was not afraid of any record he might make on this subject. Men could not be expected to come here and starve.

Mr WALKER was willing to go upon the record in favor of this bill. He believed his services to his constituents worth eight dollars a day, if he did not steal anything. He favored increased pay to all officers of the State. He would follow his own convictions in the matter, without the dread of the public behind him. He did not like the idea of raising the question of party in this connection. He maintained the constitutionality of the bill, and believed the raising of the per diem and abolition of perquisites would meet the approbation of the people. It was time to wipe out the idea that it was a joke to come here and make laws for the State of Indiana, and this could in some measure, be accomplished by making the office decently remunerative.

Mr. BARRETT moved to amend the bill by striking out "eight dollars," and inserting "seven dollars."

Mr. HOYER moved to table the amendment.

The latter motion was agreed to.

Mr. GIVEN opposed the bill. He did not think the fact that members voted themselves perquisites would justify them in voting for increased per diem i The raising of the per diem, so as t the office a lucrative one, would, of securing a higher order of talent the office sought after by ordinar He did not think there was any for the bill. Men were not compe accept the office, but having d should abide by the laws fixing th pensation.

Mr. SHIRLEY, while in favor of i ing the salaries of the officers of th regarded the matter of voting to i his own salary as a delicate one. not like the plan of voting perquisi would prefer a direct salary. The know members can not use all t tionery they draw. If satisfied that diem of eight dollars would be a s the people, he would favor it.

Mr. WOODARD thought the Le should legislate for the masses ins the professional classes. At five per day the members were realizin than the great majority of their c ents. An increase would not secur talent. The people were not willi taxed to raise salaries indiscrimina

Mr. SATTERWHITE said the e session to the State at the pres diem would be $30,500; the allowa stationery, as at present ordered, amount to $5,000, and the paper nished to members to $3,100 more, an aggregate of $38,600. At a per $8, the cost to the State of a session be $48,800—an increase of $10,200, some sum to be left in the treasury close of the session, or to be dev the benefit of our benevolent insti The message of the Governor sho necessity of economy in public ex tures. By increasing the per diem we take $10,000 from the treasury might be better applied.

Mr. BRANHAM said the next could vote to supply its members w tionery despite this law. The spe sion was not called for the pur raising salaries of members, and it not look well to commence that wo He was willing to raise the sal Governor and judges, because the all their time to the public ser gentlemen consider the place of t sentative as a question of money have to combine a little patriotism or they can't afford to go to the ture. It is true, that for a man h here at the present pay, it injures iness, and if you can't make it interest of competent men to co you must get along without them

instances. And, if we can't get enough talent into the General Assembly, perhaps (and he thought it certain), that it would be the better way to reduce the number, and give all the pay to a few men. But he hoped the House would not go into this matter till we first raise the pay of the judges and Governor, and if we do not raise the next Governor's salary at this session, we can't do it at the next; and he would be very glad also to see the judges' pay increased at this session.

Mr. RENO, as a representative of an agricultural community who worked from four o'clock in the morning till sunset, was opposed to the bill.

Mr. BUTTS wished to call attention to the plank of the Republican State platform in favor of retrenchment and reform. In view of that plank he protested against the bill.

Mr. MELLETT thought the House was making a record in the direction of increased expenses. In view of the important work pending he thought these delicate questions should be postponed. He was not willing to vote increased pay to members while they sat in that pile of ruins—the old State House.

Mr. SMITH said he hoped to be able to vote for a bill to cut down the fat salaries of some of the officers in his county, and he could not do so if he voted for this bill.

Mr. THAYER said the question involved was not so much an increase of pay as a difference in mode of payment. Two-thirds of the members at the close of the session would vote to retain the copies of the statute, borrowed for the session, and when they got home would try to sell them. They were saving their stationery for the same purpose. He felt that he was getting more than he was worth, but wanted the per diem increased for the benefit of future Assemblies. Many men who would like to become members of the General Assembly could not afford to do so; and thus it was, perhaps, true that many of the better qualified were kept out on that account. He was anxious that the men of every General Assembly should be equal to the service required. With regard to the opinion that better pay would not command a better class of talent, he compared the members of the General Assembly of this State, or any other State, at five dollars a day, with members of Congress at Washington at twenty dollars a day, and concluded that the larger per diem commands the best talent. Now if men are willing to make sacrifices by coming here to serve the State, still it is not right; and from such considerations he hoped the pay of members of the next and succeeding Legislatures would be increased and thought it would be well to pass such a bill at once and get it out of the way.

Mr. WILLARD demanded the previous question, which was seconded and ordered by the House, and then the bill was ordered to the engrossment for the third reading.

A message was received from the Governor announcing the signing of Mr. King's Insurance Company bill, No. 33.

Also a communication in answer to the resolution of the House asking for information concerning the status of the suit of the State on relation of J. C. Robinson vs. the Terre Haute and Indianapolis Railroad for the recovery of a sum of money said to exceed $1,000,000, and alleged to be due the State in trust for the school fund.

Also, a communication transmitting a memorial from the Bar Association of Indiana.

A message was received from the Senate announcing the adoption of certain joint rules.

SIXTEENTH COMMON PLEAS DISTRICT.

Mr. GLAZEBROOK returned Mr. Wood's Common Pleas Court bill, [H. R. 37] prescribing the time for holding the Courts in the Sixteenth District, recommending its passage.

On motion of Mr. WOOD, the rules and constitutional restrictions were dispensed with, and the bill was passed the third reading - yeas 95, nays 0.

CARROLL COUNTY TRUST FUND.

Mr. BARKER, from the Special Committee under Mr. Richardson's resolution for investigation of certain matters in Carroll county, called the Carroll county trust fund case, relating to a discrepancy as to money which should have been paid into the treasury from the estate of Samuel Griel, deceased, late of Carroll county, and never properly accounted for, as appears from the records; reported an order for process from the Speaker for the attendance of witnesses to testify before the Committee.

Mr. WALKER objected to this as an unnecessary expense. The testimony could as well be taken in Carroll county.

Mr. BARKER said the case involved not only a considerable sum of money, but a question of character, and the testimony sought was not of a character that could be compelled before a notary or other officer.

The report was concurred in.

PURDUE UNIVERSITY.

Mr. BARRETT offered a resolution instructing the Committee on Education to investigate and report what amount of money will be necessary to complete Purdue University; which was adopted.

JAS. F. DILL.

Mr. BARRETT submitted a resolution, (accompanied by a statement from the applicant) for the employment as page or in some other capacity, of James F. Dill, (a son of Captain J. C. Dill of the Indiana volvnteers, who was murdered by guerrillas during the war, leaving his family destitute.) Mr. Barrett said he would not have presented the resolution but for the fact that the applicant had served acceptably as a page four years ago; and the additional fact that in the appointment of pages two had been selected from one family and he believed in distributing these things around.

Mr. KING moved to refer the resolution to the Committee on Employes.

Mr. WALKER moved ineffectually to lay the motion on the table. The resolution was then referred to the Special Committee on Employes.

REPEAL OF THE CORPORATION DRAINAGE ACT.

The House proceeded to the consideration of bills on the Speaker's table, and Mr. Butterworth's bill [H. R. 3] to repeal the corporation dralnage act, and the act of 1871, supplemental thereto, was taken up, the question being on the engrossment.

Mr. RUMSEY moved to recommit the bill to the Committee on Drainage and Dykes, with instructions to amend by a provision that this act shall not affect drainage associations organized under the repealed acts, the length of whose line of ditch is twenty miles and under.

Mr. BUTTERWORTH hoped the bill would not be again referred. He desired a square vote upon it. If there is any question of the highest interest to the people of the northern part of the State, it was the question of the repeal of this Kankakee drainage act. That act was passed by the Legislature of 1869, without the knowledge of the people, and unasked for by the people directly or indirectly interested in the work proposed to be done. We have seen that corporation of land speculators, on the authority of the State of Indiana, running over territory hundreds of miles in length and several miles in width, and following up tributary streams with their assessments of imaginary and intangible benefits, to the amount of $5,000,000. When these assessments are filed with the proper officer, they become mortgages upon these lands for many times more than they are worth—and mortgaged, too, for a scheme that is almost universally believed by those who are well acquainted with these lands, to be impracticable, and worthless when done. It is for this reason that he opposed a recommittal. He wanted a square vote. Those who know the Kankakee country best believe this scheme to drain it useless and worthless. The people know when they want their lands drained, and they don't want any foreign organization to step in on a gigantic land grab scheme and do it for them without their consent. The scheme was an outrage. This bill constituted his principal stock in trade here, and he could not go back to his constituents without presenting them this bill enacted into a law. The law now in force was involving thousands of men in tedious and exhausting litigation. Thousands of acres are mortgaged under it for more than they are worth. He believed in drainage, but the owners of the lands should be permitted to do it themselves.

Mr. BARRETT moved to lay the motion to recommit on the table.

The motion was agreed to.

Mr. SHIRLEY regretted the disposition to act hastily in the matter. He had no doubt the law was oppressive in some respects, yet by its unconditional repeal many would be affected injuriously. It should receive careful consideration.

Mr. HATCH moved the previous question, but the House refused to second the demand.

Mr. BARRETT said the law had been engineered through the General Assembly in the interest of large non-resident landowners, and, if unrepealed, would work the ruin of a number of small farmers in the Kankakee valley.

Mr. HELLER said that under the present law the people could not drain their own land. It should be repealed. A law was now in the hands of the Judiciary Committee touching the subject of drainage, and would be reported in such shape as to guard the rights of all concerned.

Mr. WALKER said that the people of his county were not directly interested in this matter, but they regarded the Kankakee Drainage Law as a gigantic abuse.

Mr. OFFUTT was afraid of hasty action. He wanted the bill referred back, with instructions to amend, so as to secure rights which have accrued under it.

Mr. LENFESTY maintained that great benefit had accrued from the work already

done. A great deal of work is now in progress, and the unconditional repeal of the law would injuriously affect many who were interested.

Mr. BUTTERWORTH explained that most of the ditching undertaken by small companies was under the drainage law of 1867, what is called ".the one man drainage law"—these organizations to which gentlemen refer, are under the drainage act of 1867, and not under that which this bill proposes to repeal.

Mr. CAUTHORN suggested that in order to secure rights which may have accrued, the friends of the bill would do well to consent to its recommittal in order that a saving clause might be inserted.

Mr. HENDERSON was willing to accept an amendment providing for the exemption from the operation of the bill of drains not more than twenty miles in length.

Mr. WOOLLEN moved to refer the bill to the Judiciary Committee, with instructions to incorporate a section reserving vested rights.

The motion was agreed to, and the House then took a recess till two o'clock, p. m.

AFTERNOON SESSION.

The SPEAKER resumed the chair at two o'clock p.m.

Mr. HENDERSON moved to reconsider the vote of this morning, ordering the engrossment of Mr. Walker's county seat and building amendment bill [H. R. 81] presenting a remonstrance against it, signed by Gordon, Floyd, Julian and others, alleging that its provisions, looking to the removal of the county seat of Wayne county from Centerville to Richmond, would injuriously affect the public interests.

Mr. WALKER stated that the memorialists were not citizens of Wayne county; and, on his motion, the motion to reconsider was laid on the table.

JUSTICES COURT APPEALS.

Mr. Given's bill [R. R. 7] providing that Justices of the Peace shall have exclusive jurisdiction throughout the county. in certain cases of misdemeanor, punishable by fine not exceeding $25, was taken up and passed the final reading in the House. Yeas, 97; nays, 13.

Mr. Given's bill [H. R. 15] to amend section 70 of the Justices act of June 9, 1852, by providing that costs shall follow the judgment in all cases of appeal including accrued costs, was taken up—the question being on the third reading.

Mr. BUSKIRK showed that the bill, by repealing the provision of law which requires that, in cases of appeals from the judgment of a Justice, the judgment must be changed to the amount of $5, or the costs can not be reversed and charged upon the appellee. The present law in its practical operations, was far better than the pending bill.

Mr. SHIRLEY suggested that the bill does not save the pending cases of appeal; and if it was likely to pass it ought to be referred back to the Committee, with instructions to amend it, so that it would not work injustice in such cases.

Mr. WILSON, of Ripley, moved to recommit the bill with the instructions suggested by Mr. Shirley.

Mr. MILLER sent up and caused the existing statute regulating the costs in appeals from the Justices' Court to be read. He said the Justices' Courts were designed for the convenience of neighborhood litigations, without a lawyer, in courts of limited jurisdiction; and this five dollars to change the costs was put there to discourage litigation about small matters. There may be exceptional cases, but it has the effect in ninety-nine cases out of a hundred of keeping little cases out of the Courts of Record. If this amendment bill pass it will require the party appealing his case to pay the costs of both trials. He was opposed to lightly setting aside laws so well known and satisfactory in practice as this.

Mr. WALKER. This bill was drawn to discourage litigation, and it is no innovation at all. In his practice this was the result: Whenever a suit is instituted before a justice of the peace the defendant, if he wants time, simply withholds his defense—his testimony before the justice, and invites the plaintiff to go on with his case and make all the costs he may—simply filing his answer. And when he goes up with his appeal he has only to change the judgment five dollars and the appellee must pay the costs. But will this man go into the Appellate Court when he knows that he will have the costs to pay in any event? This bill will have the effect to compel parties to close their suits before the justice. He added, for the benefit of Mr. Shirley, that the bill saves all pending cases.

Mr. GIVEN defended his bill by succinctly stating the operation of the present law under which the costs follow tne appeal, and he insisted that his bill is a proposition to discourage litigation. It proposes security to the defendant. All he would have to do under it, would be to

come in and confess judgment. Then if the plaintiff would recover more than the defendant confesses judgment for, he pays the costs and has his appeal. The object is to prevent these small cases from being transferred to our courts of Common Pleas. But so long as it is understood that the costs follow the appeal, there is an inducement to appeal.

The debate was interrupted by the reception of a message from the Governor, transmitting the names of convicts who have received the benefits of the pardoning power since 1871, as asked for by resolution of the House.

The question being upon the final passage of the bill, the vote resulted—yeas 17, nays 72, so the bill was lost.

INTEREST ON JUDGMENTS.

Mr. WILSON of Ripley, a bill [H. R. 27] concerning interest on judgment [judgments shall bear the same rate of interest specified in the contract—not exceeding ten per cent.], was taken up and passed the third and last reading in the House—yeas 71, nays 19.

The SPEAKER laid before the House the Governor's communication transmitting the memorial of the Bar Association of Indiana, with reference to improvement in the judicial system of the State, which reads as follows:

To the General Assembly of the State of Indiana:

The undersigned appear before you by direction and on behalf of the Bar Association of the State of Indiana—an organization of the members of the bar of Indiana, having for its object the furtherance of such measures of judicial and legal reform as the public interest may require.

The members of said association have discussed the various features of this subject at their meetings, and are unanimous in the opinion that the judicial system of our State is, in many respects, insufficient to meet the wants of the people.

Not very perfect at first, it has been far outgrown by the rapid advance of the State in population, wealth and business. But as some of the reforms which seem most desirable can be effected only by constitutional amendment, and as it appears likely that the constitution will be subjected to the revision of a Convention at some day not very far distant, by which means changes of this sort can be introduced more readily than by legislative action, the association have directed their committee to confine themselves in this memorial to such subjects as are of the most pressing importance, and can be reached by mere act of the Gener Assembly.

In the discharge of the duty thus con fided to us, we wish to be regarded petitioners simply. We have no wish t give advice, much less to dictate to th members of this Assembly.

We have implicit confidence in the wisdom, patriotism and public spirit, bo the members of our association represen in a certain sense, the lawyers of the Stat and although they can endure the evils a defective judicial system, with no mor and probably with less loss than the clients, yet they are in a situation to hav their minds called to this subject wit peculiar force and frequency, and the feel that it is not improper that the should seek in this manner to secure you especial attention to it, among the mul tude of things demanding your notice.

With this view, we ask your considera tion, first, to the situation of the Supre Court, and the imperative necessity fo increased facilities for the transaction o its business.

It is provided by the constitution tha "justice shall be administered freely an without purchase, completely and witho denial, speedily and without delay." Th present number of judges of the Supre Court is four. It has not been increas since the organization of the State, exce in the addition of one judge in 1852.

The present judges are men of the mos laborious habits, and work constantly t the full measure of human strength, bu cannot dispose of the business as fast as accumulates. There are now pending upo the docket of that court, about seven hun dred cases—a number fully sufficient t occupy the time of the court for two yea to come. This condition of things is n new, but has existed for several years, no withstanding the most strenuous exertio on the part of the judges. Under exis ing circumstances a debtor who wishes t obtain delay, has only to appeal his ca to the Supreme Court to get from one two years' time at six per cent. interes and this operates as a double injury—i not only is justice obstructed by an app for time merely in the case appealed, b the opportunity to obtain delay in thi way induces appeals that ought not t be taken, and crowds the docket wi causes that take the time of the court, the great detriment of those that a really deserving of attention. The oppo tunity also to obtain delay by taking appeal put its in the power of the str to oppress the weak by protracted liti tion. This is especially true of powe

moneyed corporations. It is in the power of a railroad company by making it a practice to contest every claim to the utmost possibility to wear out and exhaust ordinary litigants by expense and delay, and by the example of a few such cases to so intimidate the community that men of limited means will submit to wrong rather than risk a contest with so powerful an adversary, made still more powerful by the inefficiency of the law. While it is possible so to pervert the law it can not be said that justice is administered either "completely and without denial" or "speedily and without delay."

There are some respects also in which the business of the court would be greatly benefited by the presence of five judges on the bench aside from the increased force brought to bear in the transaction of business. As organized at present, it requires the concurrence of three minds in four to decide a cause. The judges are unwilling to fail to decide a cause if they can possibly help it, and so sometimes spend a much longer time in the examination and discussion of one case than its importance would otherwise justify, endeavoring to bring three of their minds to a concurrence upon some decisive view of it. But notwithstanding all their efforts they sometimes remain equally divided. In such cases the judgment of the Court below is affirmed, and if the question be of slight importance or rare occurrence, little harm is done, but when the question is one of practical importance and constantly arising in various parts of the State, and decided in different ways by the judges of the inferior Courts, then the impossibility of securing a final and authoritative settlement of it by the Supreme Court becomes a public calamity.

Precisely such a state of things has occurred in regard to the Fee and Salary Bill passed at the last session. Upon some of its most important features the judges of the Supreme Court are divided equally, while the decisions of the inferior courts are so conflicting that the law upon that subject is in a state of perfect chaos. With five judges on the Supreme Bench, such a catastrophe would be impossible. Every question would be decided in some way, and that without unreasonable labor on the part of judges to compel their minds to an agreement. We earnestly request, therefore, that you increase the number of Supreme Judges to five. The number will still be insufficient for the work now imposed upon the Court, but it is the highest permitted by our present Constitution. If it is thought advisable, the labor of the Supreme Judges can be very much lessened, and the amount of business possible for them to transact very much increased, by providing them with one or two secretaries, at such salaries as will secure educated and competent men; a great deal of time and strength of the Judges is consumed by labor which could be equally well performed by a secretary under their direction. In some of the States of the Union, each Judge of the Supreme Court is provided with a private secretary by the State. We have been directed by the Bar Association to ask your attention also to the salaries of all our judicial officers. They are all too low in every point of view; too low to induce suitable men (with rare exceptions) to aspire to the Bench; too low to compensate Judges for their labor as other men of like ability are compensated for like labor; and too low to enable them to support their families in such a manner as the usages of advancing society demand.

The present salaries of our Judges are very much below the average paid in the other States of the Union, and greatly below that paid the Judges of the Courts of the United States. We have prepared and now submit for your consideration, a tabular statement of the annual salaries of the Judges of the United States, and in most of the States of the Union. A few States are omitted for the reason that we could not obtain accurate and reliable information in regard to their judicial salaries:

States.	Supreme.	Circuit.	Com. Pleas.
Alabama	$4,000	$3,000	.....
Arkansas—			
Chief Justice	4,500	.....	.....
Associates	4,000	.....	.....
California—			
District Judges, $4,000, $5,000, and $6,000	6,000	in gold.	.....
Colorado	4,500	4,000	.....
Connecticut—			
$5 per day for time employed and	2,000	.....	.....
Florida	4,500	4,000	.....
Georgia (gold basis)	3,500	2,500	.....
Illinois	5,000	3,500	.....
Kansas—			
District Judges, $2,500	3,000	.....	.....
Kentucky (Court of Appeals)	5,000	3,000	$3,000
Louisiana—			
Chief Justice	10,000	.....	.....
Associates	9,500	.....	.....
District, $5,000; Parish Judges, $2,500			
Maine—			
Board, Traveling Expenses and	2,500	.....	.....
Maryland—			
Chief Justice (Court of Appeals)	3,500	3,500	.....
Associates	2,800	2,800	.....
Massachusetts—			
Chief Justice	6,500	.....	.....
Five Associates	6,000	.....	.....

Superior Court Judges, $5,500.

Michigan	2,500	1,500	.....
Minnesota	3,000	2,500	.....
Mississippi—			
(Chancellors, $3,500)	4,500	3,500	.....
Missouri	4,500	4,000	.....
Nebraska	2,000	.....	.....
Nevada, (District Judges) $7,000)	7,000	in gold.	.....
New Hampshire—			
Chief Justice	2,400	.....	.....
Associates	2,200	.....	.....
New Jersey—			
Chief Justice	4,500	.....	.....
Associates	4,000	.....	.....
New York—			
Chief Justice of Court of Appeals, $9,500. Associate Justices, $9,000. Supreme Judges, $7,200. Judges in city of New York, $12,000 to $14,000.			
North Carolina	4,000	3,000	.....
South Carolina—			
Chief Justice	4,000	3,500	.....
Two Associates	3,500	.....	.....
Ohio	3 000	.....	2,500
Pennsylvania	7,000	.....	.....
President and Associate Law Judges	4,000	.....	.....
District Court in Philadelphia and Pittsburg	5,000	.....	.....
Rhode Island—			
Chief Justice	3,500	.....	.....
Associates	3,000	.....	.....
Tennessee	4,000	2,500	.....
Texas (District Judges, $3,500)	4,500	.....	.....
Vermont	2,500	.....	.....
Wisconsin	4,000	2,500	.....
Virginia—			
Chief Justice	3,500	2,000	.....
Associates	3,000	.....	.....
West Virginia	4,500	3,500	.....

SALARIES OF THE FEDERAL JUDGES.

Chief Justice of the Supreme Court	$8,500 00
Associate Justices	8,000 00
Circuit Judges	6,000 00
District Judges from	$3,500 00 to 5,000 00

Twelve of them receiving $4,000 00 and upwards.

The State of Indiana is the sixth State in population and the seventh State in wealth, and is rapidly increasing in wealth, population, commerce and manufactures, and her rapid developement has greatly increased litigation and the labors of her Judges, and their compensation should have some reasonable proportion to their increased labors and cost of living. It has recently been provided by Congress that where any Federal Judge has served ten years and reached the age of seventy years, he may retire from active service, and shall receive during the remainder of his life the same salary which he received while in active service, while no provision has been made in any of the States for the Judges who have worn themselves out in the public service; besides, the salary, paid to the Judges of the Circuit and District Courts, which are *nisi prius* Courts of limited and inferior jurisdiction, is much greater than that paid to the Supreme Judges of our State. This unjust discrimination should no longer be permitted to exist.

The great State of Indiana is able to p her Judges such salaries as will induce ablest lawyers to seek and accept positi upon the Supreme and *nisi prius* benche

The learning, ability, independence purity of the English Judges may be gre accounted for from the fact that they appointed for life and receive, while active service, the sum of twenty-ei thousand five hundred dollars per annu and when no longer fit for active servi they retire upon an allowance amply su cient to support them during their li Such salaries would, however, be wh unsuited to our institutions and mode living.

The salaries of our Judges should be some reasonable proportion to the s that may be made in other pursuits of li and the cost of living in the manner e pected of those who occupy high positio

We therefore recommend that the a nual salary of the Supreme Judges sho be five thousand dollars; that of the C cuit Judges should be thirty-five hund dollars; that of the Common Pleas Ju should be twenty-five hundred dollars, a that of the Prosecuting Attorney should one thousand dollars, besides the fees allowed him by law.

We beg further to represent as the almo unanimous desire of the Bar of the St that some plan should be adopted to effe ually carry out the provisions of our of rights, in regard to the speedy admi tration of Justice. The "law's delay which have so long been proverbial, believe, will be found upon proper inq to be the source of nearly if not all serious dificulties and hardships of present system of jurisprudence. We lieve that more frequent terms of our cuit and Common Pleas Courts obviate many of the more serious de in our practice and proceduce. We be it is much more important to have quent sessions of our Courts rather t more extended ones at long inter Under our present system the expen litigation mainly growing out of delay so enormous as to amount to an alm denial of Justice.

It is a mockery to guarantee righ men in Constitutions and Statutes, then make the expenses and worry trial after their rights so burdensome deter the most wealthy and courag from a contest in our Courts to settle legal controversies.

While it is desirable to lessen the pense of litigation as far as possible to parties and to the public, our observa has suggested to us that much might

done in that direction by holding an issue term of court shortly before each trial term. At the issue term, judgments by default and by agreement can be rendered, and *ex parte* business and all questions arising upon the pleadings can be disposed of and settled, and the cause put at issue; then, when the cause is brought to issue, it would be carried to the trial term, which should follow not more than two weeks after the close of the issue term.

By this arrangement, cases in which witnesses are to be examined could be so set upon the docket that they could always, or nearly always be tried on the day they are set for trial. A large amount of cost in this way would always be saved to parties in the way of witness fees, and the time of the witnesses saved to themselves and to their business. Also, a large amount would be saved in jurors' fees, the jury only having to attend court while there was actual business going on requiring their presence.

Some such plan as this, that will secure speed in the disposing of cases, and cheapness to the parties and the public, will save vastly more to the public treasury, to litigants, and to the industrial interest of the country than it will cost.

We desire to call attention, also, to the very meager salary now paid to prosecuting attorneys, prosecuting the pleas of the State in the circuit courts. This office is one of great importance, and should, if possible, at all times be filled by thoroughly competent men. At the present salary such men can not be induced to accept the office, at least if they do accept it, it is at a very great sacrifice. As a mere question of economy in the administration of justice, these officers should be put upon a better footing in the matter of their salaries. The office, at present salary, can command as a general thing only the services of the young and inexperienced attorneys. In important cases, when the defense, as it usually is, is ably represented, the State must be comparatively unrepresented, unless the presiding Judge shall, to prevent the failure of justice, appoint counsel to assist in the prosecution. This is frequently done, and that too, in many of the cases, at an expense in a single trial more than sufficient to pay a competent prosecutor an adequate salary for an entire year. So long as the State neglects her own interests in this matter, so long shall we have just complaints of inefficiency in the administration of criminal justice. Such complaints are now made, and it can not be said that they are without just foundation.

All of which is most respectfully submitted by us, on behalf of the Bench and Bar of Indiana.

PETER S. KENNEDY,
ROBERT S. TAYLOR,
JOHN R. COFFROTH,
JOSEPH E. MCDONALD,
A. L. OSBORNE,
R. C. GREGORY,
W. K. MARSHALL.

On motion of Mr. BRANHAM, it was laid on the table, and 300 copies ordered to be printed.

THE STATE VS THE TERRE HAUTE AND INDIANAPOLIS RAILROAD COMPANY.

The SPEAKER laid before the House a communication from the Governor responding to the resolution of the House for information concerning the State action against the Terre Haute and Indianapolis Railroad Company for the per cent. of their earnings pertaining to the school fund, said to exceed a million of dollars, which was read by the Clerk.

The Governor informs the House that he has taken no step in the matter referred to, for the reason that the joint resolution, which passed the House at its last session, asking him to take charge of the said suit, failed to pass the Senate, and he had no official knowledge of it, except that contained in the resolution of inquiry, to which this communication was an answer. He further reports that he has in his possession no facts bearing on the case; that he had been informed at the time, by J. C. Robinson, prosecuting attorney, that he had filed a complaint in the Putnam Circuit Court against the Terre Haute and Indianapolis railroad for the recovery of certain moneys believed to be due the State in trust for the school fund (supposed to exceed $1,000,000) by reason of the company having failed to pay over a certain portion of her earnings for that purpose, as required by law; that said Robinson had applied to him for authority to prosecute suit, and for an appropriation to meet the expenses incurred, and that he had answered to the effect that if satisfied of the soundness of the case he would allow, from the contingent fund, a sum sufficient to meet the necessary expenses; but that since that time he had received no further communication on the subject from Robinson. He recommends that the matter be placed in the hands of the Attorney General or the Judiciary Committee of the House for further investigation.

On motion of Mr. MILLER it was referred to the Judiciary Committee with instructions to inquire whether any further

and what legislation may be necessary to protect the interests of the State.

The Governor's communication, with names of prison convicts who have been pardoned since January 1, 1871, was referred to the Committee on State Prisons.

U. S. DISTRICT COURT.

The Senate joint resolution for instructing Congressmen against the division of the State into two United States Judicial Districts, was taken up and adopted on the part of the House of Representatives.

JUSTICE'S JURISDICTION.

Mr. WILSON of Ripley, a bill [H. R. 26] to amend section 9 of the justices act of June 9, 1852, defining their jurisdiction, powers and duties in civil cases, (making it co-extensive with the county, and requiring that suits shall be brought in the township where defendants or one of them resides, or where the debt was contracted, or the contract made,) was taken up on the third reading—and the vote resulted, yeas 50, nays 38. So the bill failed for lack of the Constitutional majority of 51. It lies over taking place in the calendar for another vote.

The concurrent resolution as to prohibiting further letting of convict labor till after the regmlar session, and as to a system of graded prisons was taken up and referred to the Committee on Prisons.

THE WORD "WHITE."

Mr. SHIRLEY moved that the State Printer be directed to furnish the House with 300 copies of a map showing the outline of the counties, and the number of white male inhabitants in each county according to the last census.

Mr. CAUTHORN moved to strike out the word "white."

Mr. SHIRLEY explained that the Constitution of the State required the apportionment to be made upon the basis of the white population.

Mr. Cauthorn's motion was agreed to, and so the resolution was adopted.

Mr. KING offered a resolution instructing members introducing bills, to mark on the backs of the same, in pencil, their desire to be present when the bills are considered in committee, and directing the committees to notify members of the times when such bills will be considered, which was adopted.

Mr. OFFUTT introduced a bill [H. R. 104] to amend section seventy-eight of the practice act of June 18, 1852.

It was referred to the Committee on the Organization of Courts.

Mr. WOLFLIN offered a resolution providing for the indexing of the records of the Supreme Court, which was adopted.

Mr. SCHMUCK presented a joint resolution relative to the improvement of the Ohio River, asking of Congress an appropriation of $2,000,000 for the purpose of making surveys and establishing reservoirs at the head waters of the Ohio River.

It was referred to the Committee on Federal Relations.

The Committee on Mileage and Accounts submitted an amended report.

Mr. KIRKPATRICK moved the printing of 200 copies of the report of the commissioners to settle the Morgan raid claims.

The motion was rejected.

On motion of Mr. GIFFORD, the House adjourned till nine o'clock to-morrow morning.

THE

BREVIER LEGISLATIVE REPORTS.

THIRTEENTH VOLUME.

INDIANA LEGISLATURE.

IN SENATE.

SATURDAY, November 23, 1872.

The Senate met pursuant to adjournment, President Friedley in the chair.

The Secretary's minutes of yesterday's proceedings were read, corrected and approved.

PETITIONS AND MEMORIALS.

Mr. BEESON presented a memorial of Indiana yearly meeting of the Religious Society of Friends, held at Richmond, from the 25th day of the 9th month to the 1st of the 10th month, inclusive, 1872, as follows:

To the Senate and House of Representatives of Indiana:

In view of the solemn responsibility resting upon us as citizens of the State, and as professors of the Christian name, we come before you at this time.

We believe that the peace and prosperity of a State are secured by the intelligence and virtue of its citizens. It is with sadness of heart that we make the confession, that licensed intemperance, by its ruinous effect upon the conscience, by its injury of the mind, health and industry, by its direct tendency to crime and every species of degradation and immorality, destroys the domestic happiness, and increases the poverty of a large number of our citizens, and fills our prisons and peoples our asylums with its wretched victims.

And believing, as we do, that it is the bounden duty of the State, by wise legislation, to protect its inhabitants, to encourage the industry and morality of its people, as well as prevent crime; to promote these, we respectfully, yet earnestly, ask that the Legislature enact such laws as will entirely prohibit the manufacture and sale of intoxicating liquors, to be used as a beverage, in the State of Indiana.

Your memorialists will fervently pray that you may, by righteous legislation in relation to this enormous evil, secure the blessing of God upon our State.

Signed by direction and on behalf of the meeting aforesaid.

CHARLES F. COFFIN, Clerk to the Men's Meeting.
EMILY J. HARRIS, Clerk to the Women's Meeting.

It was referred to the Committee on Temperance.

PUBLIC PRINTING.

Mr. GREGG presented a resolution reciting the abuses and losses which have resulted from the office of State Printer, and granting the Committee on State Printing until the 29th inst. to investigate the propriety of abolishing the office, and that they be authorzed to send for persons and papers. It was adopted.

THE JUDICIARY.

M. WILLIAMS offered a resolution instructing the Committee on Organization of Courts to inquire into the expediency of reorganizing the courts of the State by abolishing the Court of Common Pleas and preparing a proper county surrogate system for the transaction of probate business.

It was adopted.

Mr. BOONE offered a resolution that the Committee on Rights and Privileges prepare and address circular letters to clerks of the several counties, requesting answer to inquiries as to the number of weeks courts have been in session thus far, and the number of causes on the dockets undisposed of, etc. He desired this information should go before the committee, that they may the more readily determine whether a redistricting of the State for judicial purposes is necessary.

The resolution was adopted.

CHAPLAIN SERVICE.

Mr. SLATER offered a resolution for allowing ministers of the Gospel five dol-

lars a day for each day's service rendered as Chaplain of the Senate.

Mr. THOMPSON hoped the resolution would not be adopted. It was in accordance with the wish of ministers here, that the invitation was extended to them; and he would like to see the resolution laid on the table;

Mr. SLATER withdrew his resolution at the request of several Senators.

The PRESIDENT presented a communication from the Methodist ministers' meeting, tendering the services of the clergymen of that denomination as Chaplains to the Senate.

On motion, the offer was accepted.

Leaves of absence were asked and obtained for a number of Senators till next week.

NEW PROPOSITIONS.

Bills for acts were introduced, read the first time, and severally passed to the second reading, as follows:

By Mr. SLEETH, a bill [S. 70] for an act making specific appropriations for the purchase of additional lands for the erection of workshops and barns, and to provide for suitable workshops and for the lighting of the Soldiers' Home at Knightstown Springs, in the State of Indiana, with gas. [$10,000 is appropriated; $4,000 for land, $2,500 for workshops, $3,000 for barns, $1,500 for apparatus for the manufacture of gas.]

By Mr. CARNAHAN, a bill [S. 71] for an act to amend sections 7 and 49 of the decedents' estates act of June 15, 1852.

By Mr. THOMPSON, a bill [S. 72] for an act to amend the 397th section of the general practice act, approved June 18, 1852. [The amendment provides that in actions for money on contract, in Circuit, Superior or Common Pleas Courts, if the plaintiff recover less than $50, he shall pay the costs, unless the amount shall have been reduced by set-offs, etc.]

By Mr. BEARDSLEY, a bill [S. 73] for an act to amend sections 15 and 16 of the town incorporation act of June 11, 1852, and providing for the election of the town marshal by the town trustees.

By Mr. RHODES, a bill [S. 74] for an act to legalize the proceedings of county commissioners in certain cases. [At times not fixed by law for their meetings.]

By Mr. COLLETT, a bill [S. 75] for an act defining the law of verbal slander and fixing the penalty therefor. [To define the law of verbal slander. Any person who shall falsely and maliciously utter or falsely charge any person with the crime of fornication, adultery, or whoredom, or any other felony, shall be liable to a fine of not less than $50 nor more than $5,000, and to be imprisoned in the county jail not more than one year. The truth of the charges may be pleaded by the defendant, and, if established, shall constitute a complete defense.]

By Mr. COLLETT, a bill [S. 76] for an act defining the crime of libel, and prescribing punishment therefor. [Defining the law and crime of libel: A libel is the malicious defamation of a person, made public by any printing, writing, sign, picture or effigy, tending to provoke him to wrath, or expose him to public hatred, or bring him into public disrepute, or any malicious defamation of a deceased person, tending to scandalize or provoke his surviving relatives or friends. The penalty for libel is fixed at a fine of not less than $100 nor more than $3,000, and imprisonment not less than ten days nor more than one year. The truth may be proved in defense. Malice will be presumed when the allegations are false.]

By Mr. HOUGH, a bill [S. 77] for an act to amend section 476 of the General Practice Act, approved June 18, 1852, [to amend the act to revise, simplify and abridge the rules, etc., in civil cases: The amendment provides that when the purchaser of any property sold on execution shall neglect or refuse to pay the purchase money, he shall be liable to a judgmenr for the amount of the purchase money, and damages not exceeding ten per cent. thereon, and interest and costs,]

By Mr. BOONE, a bill [S. 78] for an act to amend section 19 of the act of May 20, 1852, prescribing the powers and duties of justices in State prosecutions, [to amend the act relating to Justices of the Peace in State prosecutions so as to empower them if the judgment be not paid or replevied immediately, to commit the defendant to jail to remain one day for each dollar of the fine named in the judgment.]

By Mr. BEESON (by request) a bill [S. 79] for an act to amend section 1 of an act authorizing the making of mill races on lands owned by others, approved March 3, 1853, [to authorize the owner of a flouring mill or other machinery run by water power, to convey the waste water away by means of a race-way through the land below the site though the same belong to another person, upon payment of such damages as may accrue.]

By Mr. BEARDSLEY, a bill [S. 80] for an act to amend the fish law so as to exempt the St. Jo. river.

By Mr. COLLETT, a bill [S. 81] for an act to authorize the election of a County Engineer and three (3) Road Commission-

ers. [To be elected by the people, and to hold their office for three years each, their terms of office to expire with the terms of the Board of County Commissioners; the Engineer to take the place of County Surveyor.]

On motion it was ordered that when the Senate adjourn it adjourn till Monday at two o'clock, p. m.

WORK FOR COMMITTEES.

The following described bills were read by title only and referred to appropriate committees, except in the case named:

Mr. Taylor's bill [S. 45] to provide for the permanent enclosure of the Tippecanoe battle ground.

It was referred to a select committee consisting of Senators Harney, Rhodes and Taylor.

Mr. Neff's bill [S. 46] repealing section forty-one of the act defining who may make a will, etc.

It was referred to the Committee on Judiciary.

Mr. Cave's bill [S. 47] repealing the fish law.

It was referred to the Committee on County and Township Business.

Mr. Thompson's bill [S. 48] to amend sections one, seven and eight of the Soldiers' Home act.

It was referred to the Committee on Benevolent Institutions.

Mr. Hough's bill [S. 49] to amend section twenty-two of the town incorporation act of June 11, 1852.

It was referred to the Committee on Corporations.

Mr. Bowman's bill [S. 50] to correct and define the boundary lines between Washington and Clark counties.

It was referred to a select committee consisting of Senators Bowman, Hall, Stroud, Williams and Fuller.

Mr. Taylor's bill [S. 51] to amend section one of the Supreme Court act of May, 1852.

It was referred to the Committee on Organization of Courts.

Mr. Taylor's bill [S. 52] dividing the State into Supreme Court judicial districts.

It was referred to the same committee.

Mr. Glessner's bill [S. 53] creating the Sixteenth Judicial district.

It was referred to the Committee on Organization of Courts.

Mr. Friedley of Scott's bill [S. 54] to divide the State into Congressional districts.

It was referred to a select committee of one from each Congressional district.

Mr. Steele's bill [S. 55] to provide for the location of county seats.

It was referred to the Committee on County and Township Business.

Mr. Dwiggins' bill [S. 56] to amend sections twenty-two and fifty-six of the town incorporation act of June 11, 1852, which sections were amended March 2, 1855.

It was referred to the Committee on Corporations.

Mr. Glessner's bill [S. 57] to repeal the bolting act of February 7, 1867.

It was referred to the Committee on Judiciary.

Mr. Dwiggins' bill [S. 58] to repeal the act enforcing the thirteenth article.

Mr. Dwiggins had leave to withdraw it, a similar act having been passed in 1867.

Mr. Haworth's bill [S. 59] to amend section 16 of the county and township railroad aid act.

It was referred to the Committee on Railroads.

Mr. Orr's bill [S. 60] regulating interest on judgments and decrees.

It was referred to the Committee on Judiciary.

Mr. Thompson's bill [S. 61] to protect society against the pardoning of felons on plea of insanity.

It was referred to the Committee on Judiciary.

Mr. Dougherty's bill [S. 62] to amend the town charter of Bluffton.

It was referred to the Committee on Corporations.

Mr. Sarnighausen's bill [S. 63] in relation to holidays to be observed in the presentation of notes.

It was referred to the Committee on Banks and Banking.

Mr. Haworth's bill [S. 64] for the collection and publication of statistics.

It was referred to the Committee on Emigration and Statistics.

Mr. Sleeth's bill [S. 66] empowering town boards to restrain the sale of intoxicating liquors and the keeping of billiard tables.

It was referred to the Committee on Corporations.

Mr. Gooding's bill [S. 67] to amend section 29 of the justices' act of June 9, 1852.

It was referred to the Committee on Judiciary.

Mr. Rhodes' bill [S. 68] to amend section 2 of the Twenty-third Common Pleas District act of March 11, 1867.

It was referred to the Committee on Organization of Courts.

Mr. Sarnighausen's bill [S. 69] to authorize cities owning real estate to sell the same as the Common Council may deem expedient.

It was referred to the Committee on Corporations.

On motion of Mr. DWIGGINS, the Committee on Corporations was authorized to employ a clerk.

And the Senate adjourned till Monday at two o'clock, p. m.

THE

BREVIER LEGISLATIVE REPORTS.

THIRTEENTH VOLUME.

INDIANA LEGISLATURE.

HOUSE OF REPRESENTATIVES.

SATURDAY, November 23, 1872.

The House met at nine o'clock a.m. The prayers by the Rev. Dr. Bayless, pastor of the Roberts Park M. E. Church, of this city.

The SPEAKER announced the reading of the journal of yesterday.

On motion of Mr. THOMPSON of Elkhart, the reading was dispensed with.

Mr. WOOLLEN, from a majority of the Committee on the Judiciary, reported for the indefinite postponement of Mr. Shirley's bill [H. R. 5] to amend the exemption laws of February 17, 1852.

Mr. SHIRLEY, for a minority of said committee recommended its passage.

The SPEAKER suggested that the House is not full enough to take up this matter.

Mr. SHIRLEY: I would like to have the vote taken when there is a full House.

The SPEAKER: Then, if the House consent, the subject will lie over. He now proceeded to call the House by counties and districts for petitions and bills, neglecting the resolutions requiring the yeas and nays.

NEW PROPOSITIONS.

Mr. THOMPSON, of Elkhart, introduced a bill [H. R. 105] for an act to amend section 11 of the act for the incorporation of manufacturing and mining companies; approved May 20, 1852. [Stockholders shall be individually liable for all classes of debts and liabilities of the company, and all conveyances, gifts and transfers of property, for the purpose of avoiding such liability, shall be null and void.] It was referred to the Committee on Corporations.

Mr. CLARK, a bill [H. R. 106] to amend the act of 1871 to provide for the protection of fish. It was referred to the Committee on Rights and Privileges of the inhabitants of the State.

Mr. HEDRICK, a bill [H. R. 107] to amend section 1 of the act of February 22, 1871, to provide for the protection of fish. [Provided, that the act shall not be enforced against any person taking fish out of the Ohio river.] It was referred to the Committee on Rights and Privileges.

Mr. FURNAS presented sundry petitions from citizens of Plainfield, from the Plainfield Horticultural Society, from Cloverdale and Bridgeport, for the passage of the bill [H. R. 8] to regulate hunting and shooting; and sundry other petitions, amongst them a petition from twenty-one young ladies, asking for designated amendments of the temperance law, which, under the rules, were marked with directions to the Clerk for their appropriate reference,

Mr. BRANHAM presented the memorial of Messrs. W. C. Hanna, M. B. Hopkins and R. W. Thompson, Board of Trustees of the Indiana State Normal School, with reference to the wants of that institution, asking for sundry appropriations of money, amounting to $83,000. Present number of pupils, 96, exclusive of those in the primary department, which is self-supporting.

Mr. RUMSEY moved that 500 copies be printed.

Mr. BUTTERWORTH preferred that it should go to the Committee on Education.

Mr. BRANHAM. It is an important paper, and the facts in it ought to go to the country. The motion to print was rejected. It was then referred to the Committee on Education.

Mr. BRANHAM, a bill [H. R. 108] for an act to amend the act of December 20, 1865, to create a State Normal School. [It proposes to amend section 14 of said act so as to authorize the Board of Directors to appoint a Committee of Visitation, to regulate the conferment of diplomas; to appropriate $7,206 86 for debt, $10,000 for library, $55,000 for completion of buildings, etc., $5,000 for apparatus, and, annually, $1,000 for library and apparatus; and (in section 15) the Superintendent of Public Instruction is authorized to deduct certain moneys, and create what shall be a Normal School Fund.]

It was referred to the Committee on Education.

Mr. CAUTHORN submitted a preamble and resolution rehearsing the fact that a claim for a large sum of money has been asserted against the Terre Haute and Indianapolis Railroad Company, on account of provisions in the act for the incorporation of said company; that the State Treasury is amply supplied from the overflowing wealth of a great State; that education demands the care and encouragement of the people, and receives it, as appears from the number of colleges and universities in the State; therefore,

RESOLVED, That the Committee on Education be directed to inquire into the expediency and propriety of transferring and donating to the following named colleges and universities all the right of the State of Indiana to said claim: Indiana Asbury University, Notre Dame University, Vincennes University, Wabash College, Hanover College, Northwestern Christian University, and Franklin College, and empowering them to prosecute for the collection of the same; and that said committee report to this House.

The SPEAKER considered this to be inadmissable under the order taken for this morning by consent.

Mr. PEED introduced a bill [H. R. 109] for an act to provide for service of summons in all cases before Justices of the Peace where defendant or defendants reside in different counties. [Clerk to certify to the identity and signature of the Justice.] It was referred to the Judiciary Committee.

Mr. PEED introduced a bill [H. R. 110] to prohibit persons under twenty-one years of age from buying spirituous, vinous, malt or other intoxicating liquors. It was referred to the Committee on Temperance.

Mr. JOHNSON presented the petitions of Johnson Bros., and J. G. Greenwalt, Adjutant General, with reference to claims. They were referred to the Committee on Claims.

Mr. JOHNSON introduced a bill [H. R. 111] to authorize Boards of County Commissioners to borrow money for the construction and completion of public buildings of the county. It was referred to the Judiciary Committee.

Mr. JOHNSON introduced a bill [H. R. 112] to render wives competent to testify in cases of damages for injuries done to them. It was referred to the Judiciary Committee.

Mr. RIGGS introduced a bill [H. R. 113] to amend section 2 of the act to amend sections 4 and 7 of the act providing for the election, fixing the compensation and prescribing the duties of the Attorney General of the State. It was referred to the Committee on Fees and Salaries.

Mr. BAXTER presented two memorials from the Society of Friends in meeting held 25th of the ninth to the 1st of the tenth month; one against licensing intemperance and liquors made and used as a beverage; and the other for repeal of all causes of divorce excepting the first named in the statute. They were both read by the clerk. [See Senate proceedings of Friday and Saturday, pp. 86, 103.]

Mr. BAXTER moved that they be referred to the Committee on the Judiciary.

Mr. SCHMUCK, not caring for the House to be occupied with hearing lectures on temperance and the divorce law, moved that the memorials be laid on the table.

The motion was rejected, and they were referred to the Judiciary Committee.

Mr. WALKER introduced a bill [H. R. 114] for an act to amend the first section of the act to authorize any person desirous of erecting a flouring mill on his own land to make a race below through lands belonging to other persons, and providing for assessment and collection of damages.

Mr. McKINNEY presented claims of the *Sentinel* and *Journal* for papers furnished at the last session; and Mr. LENFESTY also presented a claim, which was referred to the Committee on Claims.

Mr. SHIRLEY moved to reconsider the vote of the House adopting his resolution yesterday, for an order to print 300 maps of the State—having since learned that the maps will be furnished without order.

The SPEAKER. It has been sent to the printer.

Mr. SHIRLEY. Still the order can be revoked.

The vote was accordingly reconsidered, the resolution laid on the table, and it was ordered that the printer be notified not to print it.

On motion of Mr. WOOLLEN, Mr. Cauthorn (hearin6 of sickness in his family) obtained leave of absence till Tuesday morning.

Mr. BRETT submitted a resolution for an order, which was adopted, that the Auditor of State be requested to furnish the House with such advance sheets of his forthcoming report as relates to the subject of insurance.

On motion of Mr. COBB, it was ordered that when the House shall adjourn to-day it shall be till Monday, two o'clock p. m.

Mr. WALKER, considering that more business can be done by the committees than by the House, moved for adjournment.

And the House adjourned.

THE

BREVIER LEGISLATIVE REPORTS

THIRTEENTH VOLUME.

INDIANA LEGISLATURE.

IN SENATE.

MONDAY, November 25, 1872.

The President took the chair at two p.m.

Prayer was offered by the Rev. Frost Craft, pastor of the Third Street Methodist Episcopal Church.

MR. HARVEY D. SCOTT.

Mr. BROWN rose to a privileged question. He presented the credentials of Hon. Harvey D. Scott, Senator elect from the county of Vigo, who came forward and took the oath of office at the hands of Hon. George W. Friedley, President of the Senate.

THE MINUTES.

The Secretary's minutes of Saturday's proceedings were being read, when—

On motion of Mr. DWIGGINS, the further reading thereof was dispensed with.

SESSION BUSINESS.

On motion of Mr. BROWN, the order of business was dispensed with, and the bill [H. R. 22] to amend the act of March 4, 1865, providing for the completion of the unfinished business of any special session of the General Assembly, by the succeeding session of the General Assembly, was read the first time.

On his further motion the constitutional restriction was dispensed with—yeas, 41; nays, 0. The bill was read by title and referred to the Committee on Judiciary.

CONGRESSIONAL APPORTIONMENT.

The PRESIDENT announced the following as the committee authorized under the Congressional apportionment resolution: First District, Mr. Gooding; second, Mr. Friedley, of Scott; third, Mr. Francisco; fourth, Mr. Sleeth; fifth, Mr. Thompson; sixth, Mr. Dittemore; seventh, Mr. Taylor; eighth, Mr. Miller; ninth, Mr. Bird; tenth, Mr. Chapman; eleventh, Mr. Winterbotham.

REPORTS FROM COMMITTEES.

Favorable reports from a number of committees were received on several bills, which went to the files to come up in regular order.

Mr. BEESON, from the Committee on Reformatory Institutions, reported in favor of the passage of the bill [S. 44] regulating the admission of inmates to the House of Refuge, which was concurred in.

Mr. GOODING, from the Committee on Judiciary, reported back the bill [S. 26] regulating descents and the apportionment of estates, and recommended its indefinite postponement, Mr. Daggy dissenting.

On motion of Mr. DAGGY, the report was laid on the table.

Mr. DAGGY, from the same committee, reported back the bill [S. 13] requiring railroad companies to keep their principal offices within the State, and that a majority of the stockholders reside within the State and along the line of their respective roads, and recommended that it be referred to the Committee on Railroads.

The report was concurred in.

Mr. DAGGY, from the same committee, reported in favor of the passage of the bill [S. 38] appointing commissioners to

sell certain real estate for a residence for the Governor, and to make an allowance in lieu thereof.

The report was concurred in.

TWENTY-FIFTH COMMON PLEAS.

Mr. DWIGGINS, from the select committee to whom was referred the bill [S. 8] to fix the time of holding courts in the Twenty-fifth Common Pleas District, reported in favor of its passage.

The report was concurred in.

On motion of Mr. DWIGGINS, the bill [S. 8] to provide for the holding of courts in the Twenty-fifth Common Pleas District [Miami and Pulaski counties] was read the second time and ordered engrossed for the third reading to-morrow.

ALLEGED EMBEZZLEMENT BY A STATE OFFICER.

Mr. HALL offered a resolution for the appointment of a committee of three "to examine the number of warrants and amounts issued by the United States to any person authorized to receive such warrants on the part of the State of Indiana, and report if like amounts have been covered into the State Treasury."

Mr. BROWN wanted to know what the resolution meant. He couldn't understand the resolution. He objected to it as being ambiguous in its meaning.

Mr. DAGGY also thought it should be modified and made more clear in its meaning.

Mr. HALL thought the meaning was so plain that a wayfaring man, though a Senator, need not err therein.

Mr. BROWN moved to lay the resolution on the table because of its obscurity.

Mr. HALL said he did not believe there was anything wrong in these accounts, but rumors were current of a large deficit, and he wanted it investigated.

Mr. THOMPON asked if the Senator could specify any officers said to be guilty of the embezzlement or any administration under which the deficiency is said to have occurred.

Mr. HALL replied that the resolution did not refer to Governor Baker, whom he believed to be as honest a man as ever lived. But he was told, before he came to the Senate, that a certain officer had failed to account for more than $100,000.

Mr. BROWN: "Then amend your resolution, name the officer, and I will vote for it."

Several other Senators expressed dissatisfaction with the language of the resolution as not being sufficiently clear and definite, and the motion to lay on the table finally prevailed, yeas 28; nays 15, as follows:

YEAS—Messrs. Beardsley, Beeson, Beggs, Bird, Boone, Brown, Bunyan, Chapman, Collett, Daggy, Daugherty, Dittemore, Dwiggins, Freidley, of Scott; Haworth, Howe, Howard, Miller, O'Brien, Oliver, Ringo, Sarnighausen, Scott, Steele, Taylor, Thompson, Wadge and Mr. President—28.

NAYS—Messrs. Armstrong, Bowman, Carnahan, Cave, Fuller, Francisco, Glessner, Gregg, Hall, Harney, Rosebrugh, Slater, Smith, Stroud, Williams and Winterbotham—15.

Pending the roll call—

Mr. DAUGHERTY, when his name was called, explained that he would favor the resolution, were it in proper shape.

Mr. GOODING explained his opposition to the resolution, because of its general character, and because the mover intimates that there is nothing wrong.

Mr. GREGG, in explanation, didn't think it wrong to investigate such subjects, especially when there is a public rumor, as stated by the author of the resolution. If it needs amendment, it can be amended; if not, laid on the table.

Mr. HOUGH, in explaining his vote, would not do anything to cover up wrongdoing by any body; but didn't think this resolution in such a shape that it ought to be adopted.

The vote was then announced, as above; and so the resolution was laid on the table.

TERRE HAUTE AND INDIANAPOLIS RAILROAD.

Mr. BROWN submitted the following:

WHEREAS, The charter or act incorporating the Terre Haute and Indianapolis Railroad Company, granted and passed January 26, 1847, provides, in section 23 of said act, that certain surplus profits shall be paid over to the Treasurer of State for the use of common schools.

AND WHEREAS, It is alleged that the said railroad company has failed to carry out that provision of its charter or act of incorporation, and that it is now thereby indebted to the school fund in a large sum of money,

BE IT RESOLVED, That it be referred to the Committee on Railroads to ascertain whether the said Terre Haute and Indianapolis Railroad Company has complied with the conditions, provisions and obligations set forth in section 23 of the act incorporating said company, approved January 26, 1847; and that to satisfactorily investigate all matters connected therewith, the said committee be and is hereby authorized to send for and examine the books and papers of said company, and to summon and examine the officers and employes of said company, and any other person and persons whose evidence may be necessary to ascertain the facts in the case.

It was adopted.

THE JUDICIARY.

Mr. ARMSTRONG offered a resolution, which was adopted, directing the Committee on Courts to inquire into the expediency of abolishing the Common Pleas Courts and creating County Courts in lieu, with powers suggested and set forth in the said resolution.

FOREST TIMBER.

Mr. HARNEY offered a resolution that the Committee on Agriculture inquire into the expediency of reporting a bill to arrest the destruction of forest trees, and to encourage their protection and culture. He insisted that we should put off the time as far as possible when timber should become scarce in Indiana. This almost indispensable article is fast disappearing. It is a mistake that men have the absolute right to utterly impoverish their land by destroying all the timber growing on it. He wanted a careful examination of the subject and an early report.

Mr. BOONE would prefer that some plans were proposed to accomplish the purposes desired by the author of the resolution. Many causes of the utter loss and destruction of timber in this country are beyond the power of law to remedy.

Mr. DITTEMORE thought the resolution would amount to but little without suggestions accompanying it.

The resolution was adopted.

SINKING FUND.

Mr. DWIGGINS offered a resolution requesting the Auditor of State to publish two hundred copies of advance sheets of his report in relation to the sinking fund. He said he had been informed by the Auditor that there was from $150,000 to $175,000 in the treasury which really belonged to the school fund, and which is lying idle.

It was adopted.

THE SUPREME COURT.

Mr. BOONE offered a resolution, which was adopted, that the Clerk of the Supreme Court report the number of causes on docket on the first day of January, 1871, and the number of cases docketed to date; also the number of cases disposed of.

OHIO RIVER IMPROVEMENT.

Mr. GREGG offered a joint resolution [S. 1] in regard to the improvement of the Ohio river and its tributaries: That whereas the Ohio river traverses the southern border of this State for some 600 miles, and low water and other obstructions render the stream unnavigable for a large portion of the year; therefore our representatives in Congress are requested to favor the improvement of said river and its tributaries by Federal authorities.

Mr. WILLIAMS moved to amend by including the Wabash river.

Mr. GREGG accepted the amendment.

The joint resolution, as amended, was adopted by yeas, 43; nays, 0.

NEW PROPOSITIONS.

Bills for acts were introduced, read t first time, and severally passed to t second reading, except the cases cited.

By Mr. HOUGH, a bill [S. 82] for an a to amend section 9 of the act of May 1852, to provide for the election of elect for President and Vice-President of t United States.

On his further motion the constitutio restriction was dispensed with by yeas, nays, 0; and the bill was read the seco time and ordered engrossed for the thi reading. [The bill is made to conform w the present law of Congress on the subje fixing the first Wednesday in December the day.]

The PRESIDENT presented an invit tion to the members from Senator Mort and lady to attend a reception, to be giv to-morrow evening.

On motion of Mr. HOUGH the invitati was accepted.

By Mr. SMITH, a bill [S. 83] for an a defining the offense of libel, making t same a misdemeanor, and prescribing pu ishment therefor. [It fixes the penalty a fine not exceeding $1,000, to which ma be added imprisonment in the county j not exceeding two years. The third se tion reads as follows: "No reporter, ed tor, or publisher of a newspaper shall b liable to prosecution under this act for fair and true report of any legislative, jud cial or public proceedings, or of any speec or argument in the course of the same ex cept upon proof of actual malice; but th privilege shall not extend to libellous com ments or remarks added to such report."

By Mr. STROUD, a bill [S. 84] for an a to protect the citizens of the State of Ind ana from empyricism, and to protect th citizens of the State of Indiana.

WORK FOR COMMITTEES.

The following described bills were re by title only, and referred to appropria committees:

Mr. Sleeth's bill [S. 70], making speci appropriations for the purchase of add tional land, the building of a barn an workshops for the Soldiers' Home.

Mr. Carnahan's bill [S. 71] to amend se tions 7 and 49 of the decedents estates a of June 15, 1852.

Mr. Thompson's bill [S. 72] to amend th 397th section of the general practice act.

Mr. Beardsley's bill [S. 73] to amend se tions 15 and 16 of the Town Incorporati Act of June 11, 1852, and to provide fo the election of town Marshals.

Mr. Rhode's bill [S. 74] to legalize th acts and proceedings of Boards of Coun

Commissioners in certain cases and declaring an emergency.

Mr. Collett's bill [S. 75] defining the law of verbal slander.

Mr. Collett's bill [S. 76] defining the law and crime of libel, and prescribing punishment therefor.

Mr. Hough's bill [S. 77] to amend section 476 of the General Practice act.

Mr. Boone's bill [S. 78] to amend section 19 of the act of May 29, 1852, fixing the powers and duties of Justices.

Mr. Beeson's bill [S. 79] to amend section 1 of the act authorizing any person erecting a flouring mill on his own land to make a mill race on the land of others.

Mr. Beardsley's bill [S. 80] to amend the fish law.

Mr. Collett's bill [S. 81] to authorize the election of a county engineer and three road commissioners, and the appointment of a county examiner.

THANKSGIVING RECESS.

On motion by Mr. DWIGGINS, the order of business was suspended, and the message from the House of Representatives transmitting a concurrent resolution for an adjournment of the General Assembly over Thanksgiving Day, and until the Monday following at two o'clock, p. m., was taken up.

On his further motion, the resolution was amended by inserting the words "Senate and" before the word "House."

On motion by Mr. BROWN, the resolution was referred to a committee of three, to put it in shape agreeing with the constitutional provision.

The PRESIDENT appointed Messrs. Brown, Rosebrugh and Dwiggins as said committee.

On motion, the committee was instructed to report immediately.

HOUSE BILLS.

On motion by Mr. DWIGGINS, bills from the House of Representatives, described as follows, were read the first time and passed to the second reading:

The bill [H. R. 7] providing that Justices shall have original jurisdiction in cases of misdemeanors, in certain cases. [Not exceeding $25.]

The bill [H. R. 27] concerning interests on judgments.

The bill [H. R. 32] to provide for Common Pleas terms in the Fifteenth Judicial District of this State. [The counties of Lake, Porter, Newton, Jasper and Starke.]

On motion by Mr. GREGG, the Senate returned to the order of bills on the second reading.

ROAD ASSESSMENTS.

Mr. Miller's bill [S. 18], repealing the plank and gravel road assessment act, approved May 14, 1869, and the act authorizing the construction of such roads, approved May 11, 1867, was read the second time.

Mr. DWIGGINS referred to the proviso that professes to save vested rights, and desired the bill should not be rushed through without careful consideration of that clause. He thought it best to refer the bill to the Judiciary Committee, and made that motion in order that the clause referred to may be carefully examined.

Mr. GREGG insisted that the bill has already been carefully examined by a committee, and that the bill is one that should be passed without fail at this session of the General Assembly. It was a measure much desired by the people in a large portion of the State, and the sending of this bill back to another committee would but delay the action of the Legislature on this subject.

Mr. O'BRIEN would favor reserving the rights of companies already organized, and thought this Legislature could do no worse thing should it repeal the laws for good roads and for ditching the lands. He favored the motion to refer, simply to get the bill out of the way for a while. He gave notice that he should oppose the passage of the bill on its merits. The acts sought to be repealed enable the collection of a tax to make good roads, from men who would not otherwise contribute a cent, and thought it a good law, which ought to stand.

Mr. DWIGGINS would make no captious opposition to the bill. His motion was not made for the purpose of delay, but that the legal point he referred to should be examined into.

The motion to refer the bill to the Judiciary Committee was agreed to.

THANKSGIVING RECESS.

Mr. BROWN, from the special committee, returned the concurrent resolution of the House on the subject of adjourning over Thanksgiving day, with an amendment striking out the words, "the House," and inserting in lieu thereof the words, "each house of the General Assembly of the State of Indiana."

The report was concurred in.

On motion of Mr. SLEETH the words, "and consenting thereto," were stricken out.

Mr. DAGGY moved to reconsider the vote by which the resolution was amended.

On motion by Mr. DITTEMORE, this motion to reconsider was laid on the table.

The concurrent resolution of the House, as amended, was adopted.

U. S. BUILDINGS.

Mr. THOMPSON'S bill [S. 65], granting the consent of the State of Indianc to the United States to purchase ground upon which to erect public buildings, was taken up.

Mr. THOMPSON anticipated action by the city to-night on the subject embraced in that bill, and would prefer it would lay over.

It was so ordered.

The Senate adjourned till to-morrow at ten o'clock a. m.

THE

BREVIER LEGISLATIVE REPORTS.

THIRTEENTH VOLUME.

INDIANA LEGISLATURE.

HOUSE OF REPRESENTATIVES.

MONDAY, November 25, 1872.

The House met at two o'clock, p. m.

Prayers by the Rev. Benjamin Fulgham, of the Society of Friends.

On the motion of Mr. LENFESTY, the reading of the journal of Saturday was dispensed with.

Mr. WILLARD moved a call of the House, which determined a quorum, and then, on motion of Mr. BRANHAM, the further proceedings thereunder were dispensed with.

REPORTS FROM COMMITTEES.

The SPEAKER called for reports from Standing Committees in their order.

Mr. KIMBALL, from the Committee on Ways and Means returned Mr. Johnson's bill [H. R. 98] making certain specific appropriations, with an amendment striking out all after the enacting clause, and inserting a section providing for appropriations to the Normal School, $4,000 to pay borrowed money; to the Governor, $1,189.11 for money paid for Supreme Court Room; State Prison, South, $12,800; House of Refuge, $18,000; and the further sums of $3,500 and $4,000 for current expenses to April, 1873.

The report was concurred in, and the bill as amended was ordered to be engrossed.

Mr. HATCH, from the Committee on Swamp Lands, returned his bill [H. R. 24] and Mr. Henderson's bill [H. R. 41] for repeal of corporation drainage act, and the act supplemental thereto, recommending that their consideration be indefinitely postponed.

The report was concurred in.

Mr. HEDRICK, from the Committee on Rights and Privileges, returned Mr. Cole's bill [H. R. 46] recommending its indefinite postponement.

It was concurred in.

Mr. PFRIMMER returned Mr. Reno's fish bill [H. R. 52] recommending its indefinite postponement.

Mr. RENO knew that the people of Indiana are tired of the present fish law. He introduced this bill, which provides for taking fish at all times. It will be impossible to exhaust the supply of fish. They will see that we might just as well expect to exhaust the streams and rivers of water as to exhaust the fish. Besides, fish are the greatest enemies of fish—greater enemies than man. Ten thousand fish are eaten by fish where man eats one of them. He hoped the House would not concur in the report, and asked for a vote on the bill. The bill was indefinitely postponed.

Mr. HEDRICK returned Mr. Rumsey's bill [H. R. 90] touching public squares and public grounds not dedicated, recommending its passage. It was ordered to be engrossed.

Mr. KING, from the Committee on Railroads, returned Mr. Mellett's bill [H. R. 54] to amend the act passed at the special session of 1865, for a just valuation and taxation of railroad property, recommending that it be referred to the Commit-

tee on Ways and Means, because the bill provides for taxation. The report was concurred in.

Mr. FURNAS, from the Committee on Agriculture, returned Mr. Odle's dog law amendment bill [H. R. 50] recommending its passage. It was ordered to be engrossed.

Mr. COWGILL, from the Committee on Mileage, reported again the amended mileage bill, and it was read and finally passed the House.

Mr. OGDEN, from the Committee on Corporations, returned Mr. Rigg's town attorney bill [H. R. 47] recommending its indefinite postponement. It was concurred in.

Mr. RICHARDSON returned Mr. Branham's bill [H. R. 71] to amend section 60 of the city corporation act of March 14, 1867 [so that cities shall have power to borrow money to aid in the construction of railroads and public buildings on petition of a majority of the citizens,] recommending its passage. It was ordered to the engrossment.

Mr. BAXTER, from the Committee on Reformatory Institutions, returned Mr. Baxter's bill [H. R. 92] to amend the act to establish a house of refuge [relative to the admission of infants under the age of sixteen years. It provides for the admission to the House of Refuge of incorrigible children on the order of courts of competent jurisdiction, at the request of parents or guardians, or of children guilty of crimes punishable by imprisonment. In the latter case the accused may elect to be examined privately. One-half the cost of the maintenance of the inmate shall be borne by the county and the other half by the State, except in cases of children sent for incorrigibility at the request of parents; and then, in case they are able, they shall bear the whole expense. But in no case shall the State be chargeable with more than one-half the expense of maintenance, nor with anything on account of transportation.], recommending its passage.

It was ordered to the engrossment.

The SPEAKER proceeded to the call of the House by counties for

NEW PROPOSITIONS.

Mr. ELLSWORTH submitted a resolution for an order, which was adopted, that the Auditor of State be requested to communicate to the House what information he has in regard to the duties of the agent of State.

Mr. MILLER introduced a bill [H. R. 115] to repeal the act to regulate the sale of patent rights, and provide against frauds in connection therewith, approved April 23, 1869, which was referred to the Judiciary Committee. Also, a bill [H. R. 116] making specific appropriations for the purchase of lands for the erection of buildings, shop and barn, and for lighting said buildings with gas, for the Indiana Soldiers' Home, at Knightstown [It appropriates $10,000.], which was referred to the Committee on Scientific and Benevolent Institutions.

Mr. SCOTT submitted a resolution for an order, which was adopted, that the Committee on County and Township Business be instructed to ascertain whether the express and telegraph companies are regularly assessed and taxed in all the counties through which their lines pass.

Mr. CLAYPOOL submitted a resolution, which was adopted, that the Committee on Fees and Salaries inquire into the expediency of a law conferring upon the county commissioners the power of fixing the compensation of county clerks, sheriffs, auditors and treasurers; and inquire into the propriety of paying the fees, by which such officers are now compensated, into the county treasury, and report by bill or otherwise.

Mr. ISENHOWER introduced a bill [H. R. 117] supplemental to the act to authorize aid in the construction of railroads by counties and townships taking stock and making donations, approved May 12, 1869. [If the railroads fail, the money shall be refunded to the tax payers, less the fee for collection.]

It was referred to the Committee on Railroads.

Mr. WILSON of Ripley introduced a bill [H. R. 118] making the parties competent witnesses as to certain matters in cases where contracts have been assigned to decedents.

It was referred to the Committee on the Organization of Courts.

ADJOURNMENT TILL MONDAY.

Mr. CAUTHORN submitted a concurrent resolution [which was adopted on the part of the House] rehearsing the National and State appointments of Thursday, the 28th, as a day of thanksgiving, and ordering therefor that when the two Houses of the General Assembly shall adjourn on Wednesday, it shall be adjourned till Monday, December 2, at two o'clock, p. m.

NEW PROPOSITIONS.

Mr. CAUTHORN introduced a bill [H. R. 119] in relation to the organization of the two Houses of the General Assembly, and defining the duties of certain officers in relation thereto, and declaring an emer-

gency (the Secretary of State to organize the House of Representatives; the Auditor of State the Senate; and the State Libaarian to be Doorkeeper in said organization, and without additional compensation.)

On motion of Mr. CAUTHORN, the rules and constitutional restriction were dispensed with, and the bill was carried to the engrossment.

On motion of Mr. OFFUTT, a further dispensation was agreed to, and the bill was considered as engrossed and finally passed the House—yeas 84, nays 2.

Mr. WOOD, a bill [H. R. 20] to provide for the time of holding Circuit Court in the Ninth Judicial Circuit. [It provides that the courts shall sit in Marshall county on the first Mondays of February and August, and that the courts shall follow on the Mondays following the closing of the courts in the respective counties in the following order: Fulton, Pulaski, Starke, Lake, Porter, Laporte, St. Joseph.]

It was referred to a select committee, consisting of Messrs. Henderson, Crumpacker, Troutman, Teter and Glazebrook

Mr. EDWARDS of Lawrence, a bill [H. R. 121] to repeal an act in relation to the taxation of bonds by towns and cities, approved June 10, 1852.

It was referred to the Committee on Cities and Towns.

Mr. BILLINGSLEY presented a temperance petition, also a bill [H. R. 122] providing for the appraisement of real estate in cities of thirty thousand or more inhabitants, providing for the compensation and duties of county auditors therein. It was referred to the Committee on Ways and Means. Also, a bill [H. R. 123] prescribing the time for the transaction of road business, and for the appointment of superintendent and physician for the poor. [Only at the December sessions of the Board of County Commissioners—the road business only at the regular sessions.]

Mr. JOHNSON presented a claim in favor of Stearns Fisher.

Mr. JOHNSON, a bill [H. R. 124] without title, "There shall be built in the Governor's Circle a State monument to the memory of Indiana soldiers and sailors who periled their lives for their county." [It makes tne Governor, the State officers, and General Nathan Kimball, General Ben. Harrison, General George H. Chapman, and W. H. English a Board of Commissioners for superintending the erection of a monument, appropriates $100,000 for that purpose, and authorizes the Board to receive donations from individuals or corporations in the name of the State.]

It was referred to the Select Committee on Soldiers' Monument.

Mr. PEED, a resolution that the Auditor of State be requested to furnish each House with such portion of the advance sheets of his forthcoming report as relates to the State printing.

It was rejected.

Mr. HATCH, a resolution, which was adopted, that the Committee on Benevolent and Scientific Institutions inquire into the expediency of incorporating an institution for the cure of inebriates.

Mr. COLE, a resolution, which was adopted, that the Committee on Roads inquire into the expediency of abolishing the office of District Supervisor and providing in lieu one supervisor in each township, and report by bill or otherwise.

Mr. GRONENDYKE, a bill [H. R. 125] to amend section 1 of the act providing for calling special sessions of boards of county commissioners, approved March 2, 1863. [It provides for the calling of such extra sessions by the county Auditor; in case of his death or disability, by the county Clerk; in case of his death or disability, by the county Recorcer; and in case of death or disability of the latter officer, then by members of the Board.]

It was referred to the Judiciary Committee.

Mr. WALKER, a bill [H. R. 126] to restrain animals from running at large, and to authorize permits for animals to run at large, by county commissioners and township trustees; prescribing the duties of marshals and constables in relation thereto; precribing penalties and repealing conflicting laws. It was referred to the Committee on Agriculture. Also, a bill [H. R. 127] to amend second section of the act of February 26. 1867, concerning the perpetuity of voluntary associations, and repealing, etc. It was referred to the Committee on Corporations.

Mr. TULLEY, a bill [H. R. 28] empowering the Board of Trustees of any incorporated town in the State to compel the owners of land in such town to plant and maintain shade trees in such town. It was referred to the Committee on Cities and Towns.

On motion of Mr. BRANHAM, the Committee on Ways and Means were authorized to employ sufficient clerical force.

Mr. COBB was added to the Committee on Ways and means.

Mr. CAUTHORN presented preamble and resolution for an order, which was adopted, that no committee of the House be authorized to incur expenses, without the consent of the House being first obtained.

On motion of Mr. WALKER, the Committee on the Judiciary was authorized to employ a clerk.

On motion of Mr. RIGGS, the Committee on Claims was authorized to employ a clerk.

Mr. GIFFORD moved that the House adjourn, and accordingly the House adjourned till to-morrow morning at nine o'clock.

THE

BREVIER LEGISLATIVE REPORTS

THIRTEENTH VOLUME.

INDIANA LEGISLATURE

IN SENATE.

TUESDAY, November 26, 1872.

The President called the Senate to order at ten o'clock.

Prayers were offered by Elder William F. Black, pastor of the First Christian Church of Indianapolis, and President of the Northwestern Christian University.

The Secretary's minutes of yesterday's proceedings were read, amended and approved.

PETITIONS AND MEMORIALS.

The following described petitions and memorials were presented and referred to appropriate committees:

Mr. WINTERBOTHAM presented a petition from citizens of Laporte and St. Joseph counties, reciting that the act to authorize the construction of levees, dykes and drains, etc., was passed for the benefit of a certain company in the northwest part of the State, and asking for its repeal.

It was referred to the Committee on Corporations.

Mr. TAYLOR presented a petition from the Trustees of the State Agricultural College or Purdue University, setting forth that the present currency value of the fund derived from the sale of land-scrip for the University is $314,067 52, yielding an annual interest of $15,000 in gold and $1,200 in currency; that a law is now pending before Congress, which will probably pass, donating one million of acres of land to each Agricultural College; that Mr. Purdue has agreed to give $150,000, in yearly installments, Tippecanoe county $50,000, and that the University had other sources of revenue; that they had commenced the erection of buildings, etc., for said college for which $167,000 would be required between now and next midsummer to provide them for the reception of students, and the trustees will have but $40,000 coming in to meet the requirement. They therefore ask for an appropriation of $100,000.

It was referred to the Committee on Education.

Mr. HUBBARD presented other petitions in relation to the repeal of the drainage law, which were referred to the Committee on Corporations.

THE WABASH AND ERIE CANAL BONDS

The PRESIDENT presented a communication from the trustees of the Wabash & Erie canal, inclosing a memorial from the stockholders of canal certificates. The memorial recites that the subscribers were the owners of certian bonds issued from 1832 to 1836, which they were induced to surrender under the promises and provisions of the acts of 1846-7, which not only guarantee to them the tolls and revenues of the canal for the redemption of principal and interest for their bonds, but also expressly provided that the State would make no provision thereafter to pay either principal or interest on any internal improvement bond until the holders should have first surrendered said bonds to the agent of the State and have received in lieu thereof certificates of stock. They are now informed that application has been or

will be made to the General Assembly to provide for the redemption in cash of certain outstanding original State bonds in violation of said proviso and of the said acts of the assembly, and contrary to the good faith of the State. They therefore protest against any provision for the payment of any of the bonds of the State contrary to said proviso and request that their protest may be placed on the record. Should, however, the General Assembly redeem in cash said outstanding bonds the subscribers insist that the same provision should be made for the payment of the principal and interest of their certificates.

The memorial is signed by Dent, Palmer and Co., N. M. Rothschild and Sons, Baring Bors. and Co., London Committee, and Frederick Hunt and Co., George Mosle, August Belmont and A. Gracie King, New York Committee.

Mr. CHAPMAN moved that the memorial be referred to the Committee on the Judiciary.

Mr. DWIGGINS moved to amend by laying it on the table.

Mr. BROWN hoped the Senator (Mr. Dwiggins) would withdraw that motion. What is the object of laying it on the table ?

Mr. DWIGGINS: To dispose of it.

Mr. BROWN: Why dispose of it in that way ?

Mr. DWIGGINS: It is the best way. We have had enough of these memorials.

Mr. BROWN: The statements made in the memorial in reference to the acts of 1846 and 1847 were totally without foundation, and the Senate owed it to the State to make some reply to the memorial. In his judgment, there were many things in it in utter violation of the law of 1846-7. He thought we owed it to the State to reply to it. The proviso referred to in it is utterly void and has been so held by the Supreme Court and so recognized by every lawyer in the State, and he thought the honor of the State would be better vindicated by replying to it than by laying it on the table.

Mr. DWIGGINS thought we had fully answered these gentlemen before. They have been here time after time and term after term of the legislature, knocking at the door of the treasury for the payment of these bonds. They had been fully answered heretofore, and it seemed to him, they were not entitled to further answer at the hands of the Senate. He moved to indefinitely postpone the memorial.

Mr. BROWN. The Senator, with all his zeal, ought not to forget that the Constitution of the State provides that any person may petition the General Assembly, and that constitutional provision means that petitions shall be respectfully treated. This is in the nature of a petition, and the zeal of the Senator should not carry him away from his rightful obligation to the Constitution. There are Senators differing in opinion in reference to the payment of these internal improvement bonds. He held the opinion that he expressed in the Senate two years ago, that while these bonds are a paramount lien on the Wabash and Erie Canal—paramount to the trust deed conveying the land to the Board of Trustees, and to the deed in fee simple, conveying away 800,000 acres of land. He believed that a fair construction of the law and the contract, and the maintenance of good faith pledged by the people and accepted by those who took the canal and the lands, means this, that they took it upon the condition, or rather took it with the hazard and expectancy that all the holders of internal improvement bonds would come in and make themselves parties to the contract, and that the whole improvement debt would be discharged according to the funded debt bills. There are others, however, who seem to be exceedingly forward in protecting the State against the admission of the canal debt, who believe that the legislative contract of 1846-7 was but a cancellation of the surrendered debt as between the State and those who surrendered the debt, and that it had nothing whatever to do with the adjustment of the unsurrendered portion of the debt. I believe the man who says that the legislative contract of 1846 and 1847 was an adjustment of the whole debt is the man who correctly construes the act and the best friend of the people of Indiana upon that subject.

But, be that as it may, so far as the payment of the internal improvement bonds are concerned, I, for one, do not believe that that act will give the holders of internal improvement bonds any legal or equitable claim upon the State for the payment of their stocks, for these reasons tbat if it was a breach of the legislative contract of 1846 and 1847 it would be a breach of contract without injury or damage to either of the parties to the contract, and that a breach of contract without injury or damage gives no person a right of action either in law or equity. The Legislature may perhaps pass these bonds without incurring any liability, moral or legal, for the payment of the canal scrip. But lawyers differ about it, and it seems to me that the Senate owes it to our dignity and its own self-respect to answer this claim set up in this memoral, that if the Legis-

lature does take up these three hundred and odd thousand, she, by that act, places herself equitably and legally bound for the payment of the eighteen millions of canal stock. And an indefinite postponement does not obviate the notice that these men pretend to give, and it is in violation of the constitutional provision that any citizen may petition the General Assembly, which means that the petition should be heard with decency and respect.

Mr. STEELE said he was sorry that this troublesome question was presented at this time. It had been before the Legislature at least three times and fully answered. The holders of bonds surely know by this time the position that Indiana takes in regard to those surrendered bonds. He was not aware of the difference of opinion that the Senator from Jackson [Mr. Brown] spoke of to any great extent.

He believed the opinion of the bar of Indiana, that the legal opinion of the State had been well understood, that these bonds were not payable by the State of Indiana; that is, those that were not surrendered. The opinion of the Senator from Jackson, given two years ago, was regarded as his opinion merely, and of no other legal mind in the State that he knew of. He asked whether or not it did not smack of repudiation to say that we will not honor our contracts nor pay those bonds that never have been surrendered under the legislation of 1846–7. Those bonds bear the signature of the State of Indiana. They are promises to pay, and are presented to the Auditor of State, asking that they be paid in compliance with the conditions named in the bonds themselves. The member from Jackson would say to them, Indiana has made a provision with Mr. Butler, and those he represented, that that they should pay the indebtedness of the State of Indiana. Is that the answer to be made to those who present those bonds that never were delivered up under the Butler bill? It is true we made these bonds and agreed to pay them, but outside of that we made an arrangement with a third party that they should pay them, those men holding these bonds taking no notice of the arrangement made between the State and Mr. Butler. The question arises, then, does it bind them at all? He submitted that Indiana should make provision for every dollar she owes, whether it is these bonds or any other indebtedness. We are not in a condition to repudiate any of our contracts. We are in a condition to pay every dollar that we owe. Coming in the way it does, it is no less repudiation than to turn upon any other contract and refuse to pay it.

Mr. HALL. When these 191 bonds were left out in the cold, did the Butler bill provide for taking them up?

Mr. BROWN. I want to state, once for all, in order that the Senator from Grant (Mr. Steele) especially may know, that every act of mine hitherto has been with an eye single to saving the State from incurring any legal or moral liability for the payment of these canal stocks. The Senator is at fault in his understanding of the law when he proposes to contradict what I said, that the proviso to the eighth section of the act of 1846 is a nullity. That proviso is in these words: "Provided that the State will make no provision whatever hereafter to pay either principal or interest on any internal improvement bond or bonds until the holder or holders thereof shall have first surrendered such bonds to the agent of the State, and shall have received in lieu thereof certificates of stock as provided in the first section of this act, anything in this act to the contrary notwithstanding." That proviso is null and void as to the unsurrendered bonds, and has been so declared by the Supreme Court of the United States.

The proposition that I submitted two years ago I maintain yet, and it is this: The State of Indiana was in debt by reason of her engagement in the internal improvement of the State, to rising of $15,000,000. Her creditors were demanding an adjustment of their claims. Their claim was not a claim by taxation upon the people of the State in the first instance and that is where the Senator gets himself in deep water.

Their claim was a charge upon a portion of the State's property and not a charge upon the taxing power of the State to assess taxes upon the people in order to provide funds for the liquidation of the debt. The internal improvement act expressly provided that for the payment of the internal improvement bonds the lots, lands and revenues of said canal should be applied to the liquidation of the State debt, and the State guaranteed that these revenues should be sufficient. She stood then in relation of a guarantor only, pledging that a certain public work would liquidate the debt. The State guaranteed this, that if these public works, in the natural exercise of them, should not afford revenues sufficient for the adjustment and liquidation of the debt, she then was bound to make the deficiency good. Every holder of an internal improvement bond unsurrendered has every claim, legal and equit-

able, for the liquidation and payment of his bond to-day that he ever had.

I said a moment ago that these bonds were a paramount lien upon these public works, and that is all that the law and the contract of 1846-7 ever made them. I say more than that. that the State is bound by the law and contract as a guarantor that those public works will pay the debt, and whenever these public works are exhausted, and by their exhaustion it is found that any of these improvement bonds are unpaid, then the holder of them has a claim on the people by direct taxation, to create funds for the liquidation and payment of these bonds. So when the Senator talks about repudiation he ought to understand that a candid and, in my judgment, a sensible examination of the rights and liabilities of the State under this contract saves the State's honor from repudiation by a faithful execution of the contract, and not otherwise.

The adjustment made between the State and its creditors was as follows: They agreed that upon the transfer of the Wabash and Erie Canal and its lands, tolls, proceeds and revenues, they would assume one-half of the entire debt of the State, and for the other half the State then pledged her faith that by taxation she would liquidate and pay it. That agreement, made between the State on one side and her creditors on the other side, was a complete settlement or adjustment of the whole debt as between the State and those who surrendered, but did not disturb at all the rights of those who did not surrender. But those who did surrender incurred voluntarily the liability to discharge one-half the entire debt of the State, and the language of the funded debt bills so means and does not mean anything else.

[Mr. BROWN here quoted from a message of Governor Baker to prove that the Governor agreed with him in the construction of the act. He feared that the payment of these outstanding bonds would create a liability on the part of the State for the payment of the original debt.]

Mr. BROWN said that the bonds, principal and interest, would amount to about nine hundred thousand dollars, and asked who was the better friend of the State—he who said that this sum should be taken up by the stockholders of the Wabash and Erie Canal, and adjusted by the State according to the funded debt bills, or he who insisted that the State should forget her contract and throw that large burden upon the people to be paid by direct taxation?

He said that these gentlemen, instead of standing by and seeing the order of the Carroll Circuit Court executed upon them in allowing their trust property to be placed in the hands of a trustee, appointed for the purpose of collecting tolls and paying off the full amount of these obligations, should discharae these obligations themselves and they then would have a claim upon the State for the liquidation of one half of them according to the law and the contract.

It is claimed that the settlement of 184[illegible] was only for one half of the surrendered debt. It is strange that the good, able and intelligent men who framed this legislative contract, they who lived for years as interpreters of the true intent and meaning of it—that the holders of this canal scrip should live with this contract before them for years, and that they and those representing the honor and integrity of the State should never discover until the Senator from Grant got into the Indiana Legislator, that this adjustment liquidated but one half of the surrendered debt, and not half of the entire debt. The entire transaction, the true interpretation of the act, the meaning of the General Assembly, the conduct of Governor after Governor, the action and conduct of Federal administration after Federal administration. The action of and conduct of the holders of these canal stocks, and of the internal improvement bonds for years show that the adjustment made by the law was understood to discharge the State from any legal or moral liability for the payment of one half of the entire debt.

At the conclusion of Mr. Brown's argument

Mr. STEELE again took the floor in reply. He said Mr. Brown claimed that the State was only a guarantor. This was truly an extraordinary proposition, when the bonds contained the express promise of the State to pay a certain sum with interest at certain dates. Again, the Supreme Court has decided that, although the State and Mr. Butler may have intended to bind those who did not surrender their bonds, they had no constitutional right to do so, and the contract of 1846-7 did not affect them. He maintained that under that contract the State was bound to protect those who surrendered their bonds in the possession of the canal and its appurtenances, and that if the State allowed the canal to be swept away from under them, she would become liable to them for the whole amount of the bonds surrendered. He contended that those parties that had no notice of the arrangement betwixt Mr. Butler and the State

the State refusing to pay these bonds at the time they fall due, in that event becomes a repudiation of her contract, and she cannot escape from it. Mr. S. proceeded to argue the question, referring to the BREVIER LEGISLATIVE REPORTS of last session to support his statements with reference to the proceedings on this question, his remarks being interrupted by the special order under a joint resolution of the two Houses, and in pursuance to an act of Congress, viz: a vote for United States Senator.

ELECTION OF U. S. SENATOR.

Twelve o'clock having arrived, the special order for that hour, the election of United States Senator was taken up.

Mr. TAYLOR took great pleasure in behalf of the Republicans of Indiana in nominating for the position of United States Senator, the Hon. Oliver P. Morton, of Marion county.

Mr. DITTEMORE put in nomination for the same position the Hon. James D. Williams, of Knox county.

There being no further nominations, the vote resulted as follows:

Those who voted for Mr. Morton were—Messrs. Beardsley, Beeson, Brown, Bunyan, Chapman, Collett, Daggy, Dwiggins, Freidley of Scott, Gooding, Haworth, Hough, Howard, Hubbard, Miller, Neff, O'Brien, Oliver, Orr, Rhodes, Scott, Sleeth, Steele, Taylor, Thompson, Wadge and Mr. President—27.

Those who voted for Mr. Williams were—Messrs Armstrong, Beggs, Bird, Boone, Bowman, Carnahan, Cave, Daugherty, Dittemore, Francisco, Gessner, Gregg, Hall, Harney, Ringo, Rosebrugh, Sarnighausen, Slater Smith, Stroud, and Winterbotham—21.

Pending the roll call, when the Secretary reached Mr. Fuller's name—

Mr. CARNAHAN said that Mr. Fuller was confined to his bed by sickness, but if he were here he would vote for Mr. Williams.

Mr. WILLIAMS, when his name was called, declined to vote for himself.

The PRESIDENT then announced the vote as above recorded, and said: Oliver P. Morton has received a majority of all the votes cast in the Senate for United Senator.

Mr. TAYLOR offered the following resolution:

RESOLVED, By the Senate, the House of Representatives concurring therein, That both houses will meet in joint convention at twelve o'clock m , of to-morrow, in the hall of the House of Representatives, to compare and announce the vote for United States Senator, in compliance with an act of Congress.

The resolution was adopted, and then the Senate took a recess until two o'clock, p. m.

AFTERNOON SESSION.

The Senate met at two o'clock, p. m.

Mr. TAYLOR, by consent, offered a resolution, which was adopted, inviting the members of the Cattle Breeders' Association about to hold a session in the city, to visit the Senate Chamber during their stay in the capital of Indiana.

WABASH AND ERIE CANAL.

The Senate recurred to the business pending at the time of its interruption by the voting for United States Senator just before the recess for dinner.

Mr. STEELE being entitled to the floor resumed and concluded his argument, insisting that it was trifling with the General Assembly of the State of Indiana for the memorialists to come here from year to year, and from session to session with their petitions, for when we are asked a plain question and answer it once, that should be sufficient, and when we answer it twice, that should be satisfactory, but they have been answered a half a dozen times, and still they come and ask us to again consider their claims. He hoped that the Senate would at once dispose of this matter by indefinitely postponing it.

He read the obligation contained in the bonds issued prior to the Butler bill, whereby the faith of the State was irrevocably pledged to their payment, contending that the State was primarily responsible for them and not as a guarantor. He also read the syllabus in Black's U. S. Court Reports referred to by him in the morning, to prove that the settlement provided for by the Butler bill in no way affected the status or claims of those creditors who had not surrendered their bonds.

He would not take up the time of the Senate in discussing the question as fully as it may be his privilege at the proper time. The question now is simply this: Shall we take up the time of the Senate, and appoint a committee to consider a matter that has been presented here from time to time ever since 1857? There has been sufficient answer made to enable these parties to understand that the State never intends to pay one dollar of these bonds, for she has paid her half as she agreed to.

Mr. GLESSNER insisted that this memorial is in a little different attitude from any other memorial that has ever been presented to the Legislature on this subject. He said the memorial had a major and a minor proposition. While he would be in favor of voting for indefinite postponement of this proposition for the pay-

ment of these surrendered bonds, he might not be in a condition to vote for the indefinite postponement of the major proposition that we would unconditionally pay those unsurrendered bonds. This is still a mooted question. It has occurred to him that perhaps the State might as well pay those unsurrendered bonds and that they would then be subrogated to the rights of those holding canal certificates. But when you come to discuss these several questions it is one of great doubt, one that the best lawyers of the State are divided upon. He recollected that during the last political campaign it was charged by certain radical politicians, with their usual unfair way of presenting a political question on the Democratic party, that it was in favor of paying not only the unsurrendered but the surrendered canal bonds, while on the other hand, the truth is, that two years ago when this question was presented to the Senate, upon a proposed amendment to the Constitution of the State providing against the action of future legislation in behalf of these men who surrendered their canal bonds, there was only one dissenting voice. I believe every Democrat in the Senate voted in favor of the amendment to the Constitution while many on the other side of the Senate were in favor of saying at once that they would pay those bonds that were unsurrendered. On this side of the Senate Chamber a majority of the voice of the Democratic party was on the other side of that question, for the reason that there were some unsettled questions connected with it. But notwithstanding the records show that the Democratic party is right on this question—not only opposed to paying the surrendered bonds but also the unsurrendered bonds—and inasmuch as no doubt many members of the Senate were unprepared to vote, he was opposed to the indefinite postponement.

Why not let this memorial go to a Standing Committee of the Senate? By the time a committee would consider it the Senate will be better prepared to determine as to whether they are wiliing to pay these bonds or not. By the time a report is made from a committee Senators can vote with satisfaction to themselves. While if a vote be pressed to-day they will vote with uncertainty in their minds as to whether they are voting right or wrong. While there are doubts as to which is the right and which the wrong side, it is better for the interest of the State that the matter be deferred and investigated until the Senate can discharge its duty with a proper understanding. The propositions are so interwoven [illegible] cannot be divided, otherwise he [illegible] favor the indefinite postponement [illegible] the minor proposition and be in favor [illegible] referring the major proposition to a [illegible] mittee.

Mr. HARNEY said he had examined [illegible] memorial carefully and could not dis[illegible] that it meant anything except a [illegible] to the Senate. There were no ques[illegible] asked: nothing for them to answer, [illegible] ing to refer. It is a protest against a [illegible] tain act that we may do, and a notice [illegible] they would take a certain position in [illegible] contingency. For us to indefinitely p[illegible] pone it would be a manifest impro[illegible] ety. So far as I am concerned I am [illegible] that the bondholders have given us [illegible] notice. Heretofore we have stood in d[illegible] as to what position they occupied on [illegible] question. They have occupied a po[illegible] a good deal like Lorenzo Dow said the [illegible] trine of reprobation was, whether one [illegible] one position or the other, the result [illegible] same. If we paid the Garrett bonds [illegible] were going to make us pay the canal [illegible] for that reason. If we didn't pay [illegible] bonds, and the canal passed from [illegible] holding, therefore, again, we should [illegible] it. In this memorial they distinctly [illegible] the position that we may refuse to [illegible] those bonds, and let the canal be sold [illegible] pass into the hands of the parties now [illegible] tending for it without injuring ours[illegible] because, with a full notice of all the fa[illegible] the case, they serve on us an official no[illegible] that it is our business to stand aside in [illegible] fight, that it is no concern of ours [illegible] that whatever may be the result it [illegible] affect our action in no sense. We sh[illegible] not deny ourselves the benefit of that [illegible] for it may be of service to us. There[illegible] would be manifest impropriety to [illegible] nitely postpone this memorial.

Mr. DAGGY agreed with the S[illegible] from Montgomery (Mr. Harney) as t[illegible] construction of the memorial. He th[illegible] it was out of time and out of place. T[illegible] payment of a portion of the outstan[illegible] bonds would not hurt those who [illegible] canal certificates. There is evide[illegible] covert design in this memorial. It [illegible] notice and it is a protest. If they w[illegible] that if the Legislature fails to pay t[illegible] bonds they will stand the liability, [illegible] we would have an estoppel on them. [illegible] they don't say that much. They go [illegible] so far and stop. They don't go far e[illegible] It is delusive—almost like the arg[illegible] of the Senator from Jackson (Mr. Ho[illegible] with all due deference to that Senator [illegible] it now stands, he should vote all the [illegible] against them in every shape they [illegible]

their heads. But there is being discussed a question that is not before the Senate at all. That question will come up when the bill is before us for the payment of these bonds, therefore he declined to enter into a legal discussion of the subject. This is simply a protest, saying: "Don't you legislate on that subject." He was for determining this question at once and forever, and in favor of indefinite postponement.

Mr. WILLIAMS made the point of order that parliamentary law forbids the discussion now being indulged in, in support of which he read from Jefferson's Manual, page 47.

The PRESIDENT decided the point of order not well taken.

Mr. DWIGGINS too, thought that the memorial was out of time and out of place. They say to us "we object," "we protest against your paying anybody's bonds." They say, "you dare to pay those bonds and you must pay our bonds or else you do us injustice." Suppose we decline to pay Mr. Garrett's judgment, and the canal is sold, passes out of the hands of the Trustees appointed under the Butler law, they will say that the revenues of the canal were guaranteed to them by the act of 1846-7 for the payment of their bonds and the interest, and we have violated the contract, deprived them of the rents and tolls, and therefore we must pay them the whole amount of the interest and principal. That is what they want, that we should let Garrett sell the canal so that they may claim payment of the whole amount of the bonds. That is the reason of this protest and nothing else. Why is it they are so anxious to come forward and say to the State "you must not pay a certain debt?" Why? Why are those men in London and New York so interested? Because they want us to let the canal be sold so they can then come in and say, "you violated your part of the contract and must pay us." This is the reason. Therefore he moved to indefinitely postpone this memorial and the subject matter it contains.

Mr. BROWN took the floor again and contended that it was the business of the sureties of the canal to defend the Garrett suit. They took the property with the incumbrance upon it, as a man takes a piece of real property with a mortgage on it, and they were bound to defend their right of possession against the person holding the incumbrance. The conveyance of the property by the State to the trustees created prior incumbrances, paramount liens which they could defend against all comers and were bound so to do.

He believed the best interests of the State demand that the Legislature should not undertake to interfere with the adjustment of this old internal improvement debt, because the adjustment of 1846-7 was a finality, and the people demand a faithful recognition of the obligation imposed by that adjustment. He plead for the upholding of that law and that adjustment, and not for the striking down of it. He was not one of the number of these, if any such number there are, who believe that the Legfslation of 1846-7 has affected or disturbed the rights in the least regard whatever, that the holders of the Internal Revenue Bonds obtained against the State the very moment they became the purchasers and owners of their bonds. These rights belong to them as completely now as ever, and it does not lie in the power of subsequent legislation to destroy these rights.

Were the holders to demand the liquidation of these bonds he would not lay a burden upon the industries and the labor of the people of Indiana to create a fund by taxation for the liquidation and payment of these bonds, but would turn to the law of 1836, and read to the holder these words: "For the punctual payment of the interest and final redemption of," etc. He would say to the holder of such bond: "When you took that bond you took it in pursuance of that act, and the people of Indiana by the law which authorized its issue agreed that the payment of it in the first instance was to be charged upon these public works, and it is a duty which lies upon you to exhaust these public works before you call upon the people to be taxed to pay your bonds." He would stand by the law of 1836 and would not be bringing repudiation upon the State, but holding to a faithful recognition of the law and the contract.

Mr. B. again insisted on the right of any person to petition the General Assembly, and the obligation which rested on the Senate to treat this communication respectfully.

At the close of his spoech he moved to lay the memorial on the table, in accordance with a promise to Mr. Glessner, who had made that motion, but withdrew it to allow Mr. Brown the floor; and the motion prevailed by a very large majority.

THE NEW STATE HOUSE.

The PRESIDENT laid before the Senate a communication transmitting resolutions adopted by the Common Council of the city of Indianapolis, as follows:

WHEREAS, The north half of square No. 48, commonly called West Market square, was dedicated by

the State to the city for the purpose of a market space, and if the same should be applied to any other use, it would revert to the original grantor, the State of Indiana, and

WHEREAS, It is for the benefit of the city and of the State that the new State House shall be erected on the prgsent site; therefore, be it

RESOLVED, That in consideration that the new State House, which it is proposed to build, shall be erected upon or near the present site, and that said part of square 48 shall be used as part of the State House grounds, the city of Indianapolis does hereby release and relinquish to the State of Indiana all her right, title to, and interest in, the real estate aforesaid.

RESOLVED, That the city of Indianapolis consents to the vacation of Market and Wabash streets, between Tennessee and Mississippi streets, for the purpose of enlarging the State House grounds.

It was referred to the Committee on Public Buildings.

SWAMP LAND FUND.

The PRESIDENT also presented a communication from the Auditor of State, stating that the amount of swamp land funds now on hand is $38,203 82.

It was referred to the Committee on Finance.

REPORTS FROM COMMITTEES.

Mr. STEELE, from the Committee on Judiciary, reported in favor of the passage of the bill [S. 14] to compel mortgagees to enter satisfaction of mortgage when paid.

It was concurred in.

Mr. STEELE, from the same committee, reported in favor of the indefinite postponement of the bill [S. 17] increasing the jurisdiction of justices of the peace.

On motion of Mr. WILLIAMS, the report was so amended as to lay the bill on the table, and the report was then adopted.

CLAIMS.

A report from the Committee on Claims made an allowance of $20 for services in draping the Senate Chamber in mourning, was amended by Mr. DWIGGINS, by authorizing the Auditor to pay the claim.

Mr. HOUGH moved to amend by reducing the sum to $15, as the bill only includes the services for hanging the drapery, and the pay would be in excess of the per diem allowed secretaries and other employes of the Senate.

Mr. ORR moved to lay the amendment on the table.

This motion was rejected by yeas 23, nays 24.

The amendment to strike out "$20" and insert "$15," was then rejected.

The report of the committee was concurred in.

Mr. ORR, from the Committee on Claims, returned the bill of *The People* for furnishing newspapers, wrapped and stamped, during the session of 1871, with a recommendation that it be not allowed.

Mr. SLATER inquired whether the papers were not received and used.

Mr. DITTEMORE thought they had been received and used, and ought to be paid for.

The report was concurred in.

FEES AND SALARIES.

Mr. FRIEDLEY, of Lawrence, [Mr. Brown in the chair,] by consent had leave to introduce a bill [S. —] for an act to amend several sections and repealing several other sections of the Fee and Salary bill.

On motion by Mr. DWIGGINS the Senator from Lawrence [Mr. Friedley] had leave to print his bill with a view of introducing a printed bill, [as it was a lengthy bill, on an important subject.]

PAYMENT OF WABASH AND ERIE CANAL BONDS.

Mr. STEELE had leave to introduce a bill [S. 85] to protect the Wabash and Erie Canal, and the tolls and revenues thereof from sale or sequestration for the satisfaction of the lien of certain bonds or stock of the state. [It proposes to appropriate such sums of money as may be necessary to redeem 191 bonds and their coupons such as are described in the preamble of the bill.]

On motion by Mr. STEELE, the Constitutional restriction was dispensed with by yeas, 47; nays, 0; the bill was read by title, laid on the table and 200 copies ordered printed for the use of the Senate.

BANKING.

Mr. HUBBARD, from the Committee on Corporations, returned Mr. Daugherty's bill [S. 2] authorizing the incorporation of banks of discount and deposit in the State. [The bill provides that any number of persons, not less than five, may form themselves into a corporation, and contains among other provisions, the following. The amount of capital stock to be not less than $25.000, to be divided into shares of $100; no business other than necessary for the organization of the bank shall be transacted until at least fifty per cent. paid in and a certificate of the fact filed with the Secretary of State; no bills or indebtedness in the shape or similitude of bank notes shall be issued; each director must have at least five shares of stock; fifty per cent. of the stock must be paid in before commencing business and the balance within six months thereafter; capital stock shall be held as personal property which may be increased by a vote of two-thirds of the capital, which increase shall be paid in at the time subscribed; ten per cent. shall be reserved as surplus fund

until it reaches twenty-five percent. of the stock dividends declared semi-annually; no portion of the stock shall be withdrawn; if losses are sustained exceeding undivided profits, no dividends shall be declared while it continues banking operations greater than net profits on hand; the association may be closed by a two-thirds vote of the stock, after which no dividends shall be paid or capital withdrawn until all liabilities are fully paid. The stockholders shall be individually responsible for contracts and engagements of the association.] With amendments of small importance recommending its passage.

The report was concurred in.

ENROLLED BILLS.

Mr. THOMPSON, from the Committee on Enrolled Bills, returned his bill, [S. 65] granting consent to the purchase by the Federal Government of certain lands in Indianapolis, with a report that it is correctly enrolled.

Mr. COLLETT, from the same committee, returned the bill [S. 82] to amend section nine of the act of May 20, 1852, providing for the election of electors for President and Vice President, with a similar report.

Mr. SMITH, from the same committee, returned the bill [S. 8] to provide for courts in the Twenty-fifth Common Pleas District, with a similar report.

Mr. HALL, from the same committee, returned the joint resolution [S. 1] in regard to the Ohio and Wabash rivers improvement, with a similar report.

SCHOOL HOUSES.

Mr. HUBBARD, from the Committee on Corporations, returned the bill [S. 16] to amend the title to the act with reference to the issuing of bonds to build and complete school houses, with a favorable report thereon.

The report was concurred in.

MORTGAGES.

Mr. STEELE, from the Committee on Judiciary, returned the bill [S. 14] to amend section ——, of the act of May 6, 1852, concerning mortgages with a favorable report thereon.

The report was concurred in.

JUSTICES JURISDICTION.

He also returned from the same committee the bill [S. 17] to amend section two of the act of March 11, 1861, to amend sections eight and ten of the justices act of June 9, 1852, with an unfavorable report thereon, as it proposes to give justices original jurisdiction in amounts of $500 and under. The committee recommended its indefinite postponement.

Mr. WILLIAMS moved to amend the report by striking out the words, "indefinite postponement," and inserting in lieu that the bill lie on the table.

Mr. BROWN moved to lay this motion on the table.

The latter motion was rejected upon a division of the Senate.

The amendment [Mr. Williams'] was agreed to.

The report, as amended, was concurred in.

Also Mr. Taylor's bill [S. 5] requiring railroads to issue stock to individuals who have paid taxes levied in aiding the construction of said railroads in proportion to the amount of taxes so paid, unclaimed stock to be issued to the township trustees, to be held for the benefit of the common school fund, without amendments recommending its passage.

The report was concurred in.

SPITTLER AND STACKHOUSE.

Also Mr. Dwiggins' bill [S. 32] to legalize the sale of certain lands in Jasper county, with a favorable report thereon.

The report was concurred in.

BLUFFTON.

Also Mr. Dougherty's bill [S. 62] in reference to amending the charter of the town of town of Bluffton, with a favorable report there on.

The report was concurred in.

The Senate adjourned till to-morrow morning.

THE

BREVIER LEGISLATIVE REPORTS

THIRTEENTH VOLUME.

INDIANA LEGISLATURE.

HOUSE OF REPRESENTATIVES.

TUESDAY, November 26, 1872.

The SPEAKER called the House to order at nine o'clock, a. m. Prayer was offered by Rev. Johnson Smith, of the Methodist Episcopal Church.

On motion of Mr. WOODARD, the reading of the journal of yesterday was dispensed with.

THE WABASH CANAL MATTER.

The SPEAKER laid before the House a communication from Thomas Dowling, resident Trustee of the Wabash and Erie canal, inclosing a memorial from the London and New York committees representing the holders of Indiana canal certificates. The memorial sets forth that the memorialists originally held the bonds of the State issued under various acts from 1832 to 1836, which bonds they were induced to surrender under the promises and provisions of the acts of 1846 and 1847, which guaranteed to them the tolls and revenues of the canal for the redemption of the principal and interest of their bonds, and expressly declared that the State would thereafter make no provision to pay principal or interest on any internal improvement bond or bonds, until the same should be surrendered and the holders accepted in lieu thereof certificates of stock, as provided in the act of 1847; that they are now informed a movement is on foot to provide for the redemption of certain unsurrendered bonds in violation of the provision of the said act, and contrary to good faith; and they therefore protest against any step being taken for the payment of any bonds so outstanding unless like provision be made for the payment of the bonds surrendered under provisions of the act of 1847. They ask, however, if the State shall deem it wise in the maintenance of her credit to redeem in cash the outstanding bonds that similar provision be made for the payment of the principal and interest of the canal certificates. The memorial is signed by Dent, Palmer & Co., N. M. Rothschild & Sons, Baring, Brothers & Co., and Frederick Huth & Co., of London, and George Mosle, August Belmont, and A. Gracie King, of New York, the committee of the holders of the Indiana canal certificates.

On motion of Mr. CAUTHORN the matter was referred to the Judiciary Committee.

SOLDIERS' BOUNTIES.

The joint resolution [H. R. 3] instructing Congressmen for equalization of bounties of soldiers and seamen in the war of the rebellion, to favor the passage by Congress of a law giving all honorably discharged soldiers a bounty equal to $8.33 1/3 per month, was taken up on the third reading and passed—yeas, 84; nays, 0.

HUNTING AND SHOOTING.

Mr. Furnas' bill [H. R. 8] to prevent hunting and shooting on enclosed land without consent of the owner or occupant, and providing a penalty not less than $5 nor more than $50, providing that suits shall be brought within one year by the

owner of the land, was taken up in order and finally passed the House by yeas, 69; nays, 18.

INDIANA UNIVERSITY.

Mr. King's bill [H. R. 37] to authorize an appropriation of $8,000 to pay debts incurred by the Trustees of Indiana University in 1870–71, was passed the final reading in the House—yeas 89; nays 0.

REAL ESTATE REDEMPTION.

Mr. Schmuck's bill [H. R. 43] to repeal the act of June 4, 1861, providing for the redemption of real property sold on execution or order of sale, etc., was taken up, considered on the third reading and rejected—yeas 17, nays 71.

UNSURRENDERED FIVE PER CENT. INTERNAL IMPROVEMENT BONDS.

Mr. KIMBALL asked and obtained unanimous consent to introduce a bill [H. R. 129] for an act to protect the Wabash and Erie Canal and the tolls and revenues thereof, from sale or sequestration on account of outstanding and unsurrendered canal bonds or stock or from unsurrendered Internal improvement bonds, etc. [It approprites money sufficient to redeem the bonds forming the basis of the suit and judgment of John W. Garrett to an amount not exceeding 191 of the 5 per cent. bonds.] He moved that it be referred to the Committee on Ways and Means, but on motion of Mr. Cauthorn it was laid on the table and ordered to be printed.

TWENTY-SECOND JUDICIAL CIRCUIT.

Mr. Cowgill's bill [H. R. 49] creating the twenty-second Judicial Circuit of Indiana, and fixing the time of holding court therein, was considered on the third reading.

[It constitutes the counties of Huntington, Wabash, and Miami, the Twenty-second Judicial Circuit, and fixes the time of holding courts therein.]

Mr. COWGILL set forth the necessity and desirability of this bill.

Mr. WOOLEN considered that we should be careful about falling into the error of too greatly increasing the number of circuits, and at the same time increasing the salary of the Judges.

Messrs. COWGILL and GREGORY reiterated the importance of the bill.

Mr. GIVEN suggested that there is now a circuit numbered twenty-second.

Mr. COWGILL said there is not a twenty-second circuit, and in reply to Mr. Johnson and others, he showed that those three counties will afford as much business as the Judge can get through with. The bill then finally passed the House; yeas, 71; nays, 22.

SUPERVISORS' SETTLEMENTS.

Mr. Kilpatrick's bill [H. R. 69] in relation to the settlement of Supervisors with Township Trustees, defining the time of settlement annually on the first Saturday in October, was considered and finally passed the House; yeas, 86; nays, 3.

TWENTY-NINTH (CRIMINAL) JUDICIAL CIRCUIT FOR JEFFERSON COUNTY.

Mr. Branham's bill [H. R. 72] in relation to criminal circuit courts, and creating the twenty-ninth criminal circuit (for the county of Jefferson), providing for the election of judge, the transfer of actions, etc., was considered on the third reading.

Mr. MILLER would like an explanation: the criminal court there has been lately abolished.

Mr. BRANHAM said he introduced that bill at the solicitation of prominent citizens of Madison. It is true, there was a criminal court there, and it was at the last session abolished.

Mr. BAKER, having been requested by sundry citizens of Jefferson county to oppose the bill, stated that some years ago there was a criminal court in that county, and that, by petition of two-thirds of its citizens, that court was abolished. When he was at home he was asked by those people to have the consideration of the bill deferred till he might be furnished with a remonstrance against it. I simply ask for this, not feeling sufficiently interested in the matter to ask for its indefinite postponement.

Mr. BRANHAM had also been in communication with those persons in Jefferson county who are opposed to this bill, and it was agreed between us that it might be best to let the bill pass the House to save time, and their remonstrance could be sent to the Senate.

Mr. WILSON, of Ripley. This bill, only of interest to the citizens of Jefferson county, was before the committee, with all the facts connected with its necessity or desirability. He had seen many residents of Jefferson county recently, and their expression of opinion has been almost unanimous in favor of the bill. Jefferson county is populous and Madison is a city, and they have a large amount of criminal business.

The bill was finally passed the House of Representatives—yeas 54, nays 25.

TOWN SURVEYS AND MAPS.

Mr. Cauthorn's bill [H. R. 95] to authorize cities and towns to make and authorize surveys and plats, was considered on the third reading.

Mr. CAUTHORN said: It has appeared at a recent session of the city council of Vincennes, that the existing plat of that city is entirely illegal. He understood that the town of Sullivan, and other towns in the State, were in a similar situation as to their surveys and plats, and there is no law authorizing such maps and plattings.

The bill was finally passed the House—yeas 87, nays 1.

JUSTICES JURISDICTION.

Mr. WILSON of Ripley's bill [H. R. 26] to so amend the ninth section of the justices act of June 9. 1852, as to make his jurisdiction co-extensive with the county, but that actions shall be brought in townships where defendants reside, or where the debt was contracted or the contract made, which failed on Saturday for want of a constitutional majority, was now finally passed—yeas 53, nays 38.

ADJOURNMENT OVER THANKSGIVING.

Mr. Cauthorn's concurrent resolution for adjournment over Thanksgiving day, from Wednesday to Monday, December 2, coming from the Senate with an amendment striking out "House," and inserting in lieu, "the two houses of the General Assembly"—

Mr. BRANHAM moved to suspend the order of business and take it up.

The motion was agreed to.

Mr. CAUTHORN thought the Senate was growing technical. The law provided that each House must meet on its own adjournment. This was a concurrent resolution for the adjournment of the General Assembly, and he doubted if the power existed te provide for such adjournment. The constitution gives the power to each House to meet on its own adjournment. The proper plan would have been for the Senate to agree to the House resolution and pass a similar one asking consent of the House to their adjournment in case they wished to adjourn.

The question being on concurring in the Senate amendment, it was rejected.

The SPEAKER stated that the action of the Senate was according to precedent. Thereupon Mr. Cauthorn said he would yield his objection.

Then, without reconsidering the vote rejecting the amendment of the Senate, the question was again put on concurrence; and the Senate amendment was concurred in.

On motion of Mr. BUTTERWORTH, Mr. Wilson of Ripley's per diem and mileage amendment bill [H. R. 73] was postponed, and made the special order for Tuesday next at two o'clock p. m.

Mr. King's bill [H. R. 99] to authorize cities and towns of 10,000 inhabitants and over to make loans and issue bonds, was taken up on the third reading.

Mr. KING said because the bill authorized the loans to the extent of 10 per cent. on the taxable property—a per cent. thought by some too large—he would ask unanimous consent that it be again referred the committee for further consideration. And it was so ordered.

PROTECTION OF SHEEP.

Mr. Odle's bill [H. R. 50] to amend the dog law so as not to conflict with the act of 1852 for the protection of sheep, was taken up on the final reading.

Mr. FURNAS said that in case there is not money enough in the fund to indemnify all the sheep losers, the act provides that it shall be divided pro rata amongst the losers.

Mr. SHIRLEY said he was instructed to support a measure of this kind. It was but an act of simple justice to the owners of sheep killed by dogs.

Mr. GIFFORD said under the present law the first comers amongst the losers get all the fund, and the rest get none.

The bill was finally passed the House—yeas, 85; nays, 5.

CITY IMPROVEMENTS.

Mr. Branham's bill [H. R. 71] to amend section 60 of the general corporation act of March 14, 1867, coming up in order on the third reading—

Mr. WALKER: It simply amends section 60, adding two or three lines, giving the cities authority, in the same way that they give aid to railroads and macadamized roadways, to give aid to other public improvements, upon petition of a majority of freeholders.

The vote on the final passage was reported—yeas, 46; nays, 41; so the bill failed, for lack of the constitutional majority of 51.

REMOVAL OF COUNTY SEATS.

Mr. Walker's bill [H. R. 81] amending the act providing for relocation of the county seats and the construction of buildings, by providing for immediate removal, and extending the time for construction of new buildings, was taken up on the third reading.

Mr. WALKER: The bill provides for amendment of the present act in two instances. It in no wise facilitates or permits the removal of county seats. The proposed bill begins when the removal is virtually effected. As the law now stands, when the removal is ordered, the new Court House is to be built in one year. It must occur to gentlemen that in our counties, which are generally large, no good Court House can be built in the time with any view to economy. It is known that in this city it has required a year's time to lay the foundation of a Court House. And as the law now stands, the courts can not be held in the new site till the buildings are erected. This bill provides that after the contracts have been complied with, the courts may open there, providing the petitioners shall furnish the buildingr at their own expense.

Mr. GIFFORD suggested that the bill does not limit the cost of the Court House.

Mr. LENFESTEY. Does the bill legalize any act for the removal of county seats?

Mr. WALKER. It does not in any particular refer to past legislative action.

Mr. LENFESTEY would like to have the approval of the friends of the bill of a motion to recommit the bill to the Committee on County and Township Business.

Mr. WALKER stated that the friends of the bill had been desirous, and were still, of a full and fair understanding of the matter, and it had received this consideration at the hands of the committee which had reported on it favorably. He believed the House was now ready to vote upon it.

Mr. OFFUTT spoke in favor of the passage of the bill.

And then the bill finally passed; yeas, 70; nays, 22.

PUBLIC GROUNDS.

Mr. RUMSEY'S bill [H. R. 90] touching public squares and grounds not specifically dedicated, coming up was rejected on the final reading; yeas 34; nays, 49.

ELECTION OF UNITED STATES SENATOR.

Mr. FURNAS called for the special order—the election of United States Senator—and after a call of the House—The Speaker: In pursuance of Act of Congress, the House will now proceed to vote in the election of a United States Senator for the State of Indiana, to succeed the Hon. O. P. Morton, whose term of service expires on the 4th of March next. Nominations are in order.

Mr. THAYER placed in nomination the Hon. O. P. Morton, present incumbent, in these words: "I will put in nomination as the man most eminently qualified to succeed the present able, efficient and distinguished incumbent in the United States Senate, whose time expires on the 4th of March, 1873, the Hon. O. P. Morton."

Mr. WOOLLEN nominated the Hon. James D. Williams, of Knox county.

There being no other nominations, the vote proceeded, and the Speaker reported the result: Whole number of votes cast, 95; O. P. Morton received 54 votes; J. D. Williams received 41 votes—as follows:

Those voting for O. P. Morton were — Messrs. Baxter, Billingsley, Branham, Butts, Butterworth, Broadus, Clark, Cobb, Cole, Cowgill, Crumpacker, Edwards of Lawrence, Eward, Furnas, Gifford, Glasgow, Goudie, Gronendyke, Hardesty, Hatch, Hedrick, Hollingsworth, Johnson, Kimball, King, Kirkpatrick, Lenfesty, Lee, Lent, Mellett, Miller, North, Odle, Ogden, Prentiss, Reeves, Riggs, Rumsey, Satterwhite, Scott, Tingley, Thompson of Spencer, Thompson of Elkhart, Thayer, Troutman, Walker, Wilson of Ripley, Wilson of Jay, Wesner, Wolflin, Wood, Woodard, Wynn and Mr. Speaker—54.

Those voting for James D. Williams were—Messrs. Anderson, Baker, Bowser, Brett, Buskirk, Cauthorn, Claypool, Cline, Coffman, Durham, Eaton, Ellsworth, Given, Glazebrook, Gregory, Heller, Henderson, Hoyer, Isenhower, Jones, Martin, McKinney, McConnell, Offutt, Peed, Pfrimmer, Rudder, Reno, Richardson, Schmuck, Shirley, Smith, Spellman, Stanley, Shutt, Strange, Teeter, Tulley, Willard, Woollen and Whitworth—41.

Absent— Messrs. Barrett, Barker, Blocher, Dial and Gobie.

So the SPEAKER announced the result: Mr. Morton has received a majority of all the votes cast on the part of the House of Representatives.

A message was received from the Senate, announcing the passage of a concurrent resolution for a joint convention of the two houses at twelve m. on Wednesday, for the purpose of comparing the vote for Senator.

The order of business was suspended, the concurrent resolution taken up and passed, and then, on motion the House took a recess till two o'clock p. m.

AFTERNOON SESSION.

The SPEAKER called the House to order at two o'clock, and resumed the order of business.

DEFICIENCY APPROPRIATIONS.

Mr. Johnson's bill [H. R. 98] making appropriations of $4,000 to the State Normal school, $1,199 11 to pay cost of repairs on Supreme Court buildings, $7,000 to pay debt contracted by the Southern prison, and $26,381 62 to the House of Refuge, and $4,000 for current expenses, was finally passed the House—yeas 85, nays 1.

EXEMPTION LAWS AMENDMENT.

Mr. Shirley's exemption amendment bill [H. R. 5] raising the exemption to five

hundred dollars, was taken up on the second reading thereof, with the unfavorable report of the majority of the Committee on the Judiciary, and the favorable report of the minority.

The SPEAKER. Under the rules of the House, the minority report must be considered as an amendment to the majority report. The question is on the adoption of the report of the minority.

Mr. SHIRLEY had presented this bill in view of the Constitutional provision, "that the privileges of the debtor shall be recognized by wholesome laws," etc. In 1852, under the present Constitution, the people of Indiana thought $300 was a proper exemption. But we all know now that the prices of living have so increased since that time that $500 to-day would not place the debtor in a position to protect his family so well as $300 would twenty years ago. Whilst he was by no means in favor of legislation to enable the debtor to avoid the payment of his debts, he was prepared to say that the present law does not give him enough. A man ought to have something more than his household goods—a horse, a team; and the mechanic should have his tools; and if we design to carry out this Constitutional provision (as he believed) we ought to raise the exemption to $500.

Mr. PEED did not think exemption laws were for the purpose of enabling the debtor to go on with his business, but rather for the protection of his family. If the object were to enable the man to do business, we ought to exempt much more than we do. But in his experience the $300 has been sufficient for the object of the law, and he saw no occasion now for raising it.

Mr. THAYER thought the bill a good one, and concurred fully in the remarks of of the gentleman from Johnson and Morgan (Mr. Shirley).

Mr. JOHNSON would be in favor of raising the exemption to $500, provided it can be so shaped and guarded that it cannot be used as a cloak for fraud, but only for the protection of the debtor's family. There are cases in the practice of every attorney that would illustrate this—would demonstrate that, whilst the exemption laws will, and in many cases do, protect the debtor from utter ruin and his family from want, yet, in a large majority of cases, they work injury and fraud on the creditor. I have in my mind now several instances where a man is protected by the law from his creditors, and he lives in the enjoyment of all the comforts of life through the possessions of his wife—possessions to the extent of twenty to twenty-five thousand dollars' worth of property. The man thus protected is virtually in a lucrative business, accumulating property in his wife's name. My idea is that this bill should provide for the exemption of $500 either in his own name and right, or in the name and right of his wife, or jointly in the right of both. If the family is protected the object of the law is gained. If the family is thoroughly protected by the wife having a competency in her own right, that is the object of the law, and it is so understood in all the States where an exemption law is in force. Here is justice to the debtor as well as to the creditor. It is wrong to protect the debtor by a law that will unjustly injure the creditor. Then, if it is order to propose an amendment, let the bill read in this way: "Exempt $500 owned or possessed by any resident householder, either owned by himself or by his wife, or by himself and wife jointly." If this were in the bill I should vote against the majority report.

Mr. SHIRLEY. The effect of the gentleman's amendment would be to say that the wife shall support the husband. It would be a slur on men to say that wives shall be supporters of their husbands, instead of husbands supporters of their wives. This provision of law must apply solely to the debtor—to no other person. Such a provision would violate the Constitution—strike down the whole thing. It would be unjust to say, because the wife has property, the husband shall not have the benefit of this law. The gentleman ought to remember that under our laws the realty of the wife belongs absolutely to her. You can't take the wife's property for her own debts. I say it would be not only unjust, but a reflection upon the intelligence of mankind.

Mr. JOHNSON. I did not suggest that any part of the wife's property should be taken to pay the husband's debts. My suggestion was to the Constitutional provision that there should be the necessary competency for a living. Now take the man who in his own right does not dare to say he owns anything, but whose wife has a competency, in nine hundred and ninety-nine cases out of a thousand you will find that such a debtor lives in the regular enjoyment of all the comforts of life. You will find him enjoying his wife's property precisely as his own; therefore he is fully protected in the enjoyment of all the comforts of life. I do not say that her property should be taken for his debts, but so long as he has a competency so long the creditor shall have the right to take,

not his wife's property, but his own; but protect him in $500, which shall be owned and possessed either by himself or by himself and his wife together.

Mr. WOOLLEN. I suppose, as I made the report, I ought to say something in defense of the action of the majority of the committee, and the best thing I can say is that it was the desire of the committee to let things stand as they are, unless they can see good reason for a change. The bill of the gentleman from Morgan and Johnson (Mr. Shirley) is just like any other scheme of benevolence. It was thought by the committee that it is against the Constitution. I think the exemption should be only in favor of the debtor, but the other question is the one I desire to impress upon the House. The $300 clause has stood for twenty years; and the raising of it from $300 to $500 is an innovation, and it might work more hardship than otherwise. To be sure it would be better for the debtor; but whether it would be more just is doubtful in my mind. The present exemption has operated fairly, so far as I know, all over the State. Better let it stand than begin a change of which we may not be able to see the end.

Mr. WOODARD had concurred with the minority of the committee—would be in favor of raising it to more than $500. I do not believe that all poor men are dishonest. I do not believe that any man can say that $300 is a reasonable amount for an exemption law, because it is not enough to enable a man to make a living. He must have either the implements of the farmer or the tools of the mechanic. And when the debter takes these it is not right. In Illinois the exemption is a thousand dollars. In other States a larger amount.

Mr. MELLETT. I am in favor of the minority report. I concur in the remarks of the gentleman from Morgan (Mr. Shirley) and the gentleman from Parke (Mr. Woodard.) I would be willing to raise the amount, and then it would not be as large proportionately as it was when the present law was passed. Whilst every right-minded man with the gentleman from Marion (Mr. Johnson) can sympathize with the creditor when the debtor is covering up his property, I do not think his provision would relieve that. It is true that we see many debtors living in wealth and luxury, from whom no creditor can get a dollar. But what would be the effect of the gentleman's amendment? Those debtors, instead of owning $300, would suddeniy be found stripped of every thing—even the gold-headed cane and things of that sort would be covered up by their wives names. If we could reach these cases of fraud, I might be in favor of such a provision; but thinking we can't, I shall vote for the minority report. One gentleman (Mr. Woollen) remarked that we have lived under the present law for twenty years, and seen no hardship from its operation. That has been answered by the fact, that $500 now is not equal to $300 twenty years ago.

But I would ask the gentleman if he has ever had occasion to be present when the pittance of $300 has been set off to the debtor; and if so, let him cast his eyes back on that scene and answer the question whether it is sufficient for the support of that debtor's family.

Mr. WILSON of Ripley hoped the House would not concur in the minority report. This question has been well considered by the Judiciary Committee, and it seemed to him that they are as competent as the House to determine the operation of this law. From his observation of its working for twenty years he was unable to say that it works hardships. He had never known a family to suffer because the exemption was inadequate. But where he had observed the hardship, it had been against the creditor. All debtors are not poor men, and all creditors are not rich men. Under this amendment the debtor would exempt $500 from the creditor not worth $50. Besides, when the creditor's property is before the appraisers the impulses of humanity are on his side, and they will exempt more than the fixed amount of exemption. This law is invoked ten times by the fallen and fraudulent debtor, where it is once invoked by the worthy poor debtor. I think the interests of the debtor and creditor classes are identical. We have numerous laws to prevent, to perplex and harass men in the collection of debts, insomuch that we have turned the laws of trade out of their natural channels. And if I was to say what the exemption should be I would be in favor of making it less than it is. I would go as far as any man to exempt the man who is actually worthy; but when we have protected one hundred unworthy for one that is worthy, I think we ought to pause.

Mr. MILLER. I think the conservative views expressed by the gentleman from Morgan and Johnson [Mr. Shirley] are the best. One gentleman thinks the amendment ought to be made lower, another that it ought to be increased, and others that the law ought to stand as it is. If I

were to propose an exemption law, I would make it a little different from any proposition here. I would provide, in addition to the $300 the debtor now has, that every man should have a reasonable amount exempted to be used in the trade by which he makes his living. But I do not desire to discuss the question. For the purpose merely of testing the peculiar rules we have adopted, I will move to indefinitely postpone the report of the minority.

The SPEAKER. The motion to amend takes precedence of the motion to postpone.

Mr. CAUTHORN moved to lay the minority report on the table.

Mr. SHIRLEY demanded the yeas and nays; which being ordered and taken, the result was—yeas 59, nays 30—so the minority report was laid on the table.

Mr. KIMBALL moved to recommit the bill, with instructions to amend it by making the exemption $300, and the tools, etc., used in the trade or calling of the debtor, not to exceed $1,000 in value.

The SPEAKER. The question is on the motion to recommit with the instructions.

Mr. KIMBALL. I do that, because it will enable the family to live, while the debtor will have something wherewith to make a living. Such a provision would embrace and go down to every condition of life. Even the bachelor would have under it a strong inducement to marry. [Laughter.]

The motion was agreed to, and the bill was accordingly recommitted to the Committee on the Judiciary.

AMENDMENT OF THE RULES.

The SPEAKER now directed the consideration of Mr. Kirkpatrick's resolution for amendment of the rules so as to require that all bills receiving a favorable committee report shall be printed.

Mr. BRANHAM hoped it would not be adopted. He might be in favor of such a motion to print all bills ordered to be engrossed, but the House could not know enough about a bill to order the printing because of a favorable report.

The resolution was rejected.

The resolution of Mr. CAUTHORN for the transfer of the State's claim against the Terre Haute and Indianapolis Railroad Company to certain educational institutions, was taken up when Mr. Cauthorn asked that it be passed over, and its consideration was passed over accordingly by unanimous consent.

Mr. FURNAS submitted a preamble and resolution for the use of the hall of the House of Representatives any day this week after to-morrow (Wednesday) for the Convention of Breeders of Short Horn Cattle, which is about to assemble in this city.

The resolution was adopted.

PURDUE UNIVERSITY.

The SPEAKER laid before the House a memorial, signed by the Trustees of Purdue's University, which was referred to the Committee on Education. [See Appendix.]

The SPEAKER laid before the House a communication from the Auditor of State transmitting advance sheets of a portion of his forthcoming report, in compliance with a resolution of the House of the 25th inst.

Mr. LENFESTY, by unanimous consent introduced a bill [H. R. 130] for an act to render uniform the rate of interest on the common school fund of the State (8 per cent.)

The bill was referred to the Committee on Education.

Mr. KIMBALL, by consent, a bill [H. R. 131] for the prevention of cruelty to animals, and prescribing a penalty therefor.

It was referred to the Judiciary Committee.

Also, a bill H. R. 132] defining wife whipping, and prescribing punishment therefor. [Any person beating or maltreating his wife is declared a wife whipper, and his punishment on conviction is fixed at a fine of not less than twenty-five dollars, and imprisonment in the penitentiary for not less than one, nor more than twenty-one years.]

It was refeered to the Committee Rights and Privileges.

REPORTS FROM COMMITTEES.

Mr. RIGGS, from the Committee on Claims, presented a claim of the *Journal* Company for $22, and one of Johnston Bros. for $140, recommending that they be allowed. The former was allowed, and the latter withdrawn to be presented to the Senate, the debt having originated with a committee of that body.

The same committee presented the claim of the *Journal* Company for $1,481 65 for papers furnished members of the last General Assembly.

Mr. CAUTHORN moved to strike out the item for interest. Considerable discussion ensued, when Mr. Offut moved to amend by fixing the interest at six per cent., which amendment was accepted by Mr. Cauthorn.

Mr. WOOLLEN had no doubt the claimants justified the action of members of the last Legislature, which broke up the

quorum and defeated the appropriation at that time for the payment of the bill, yet he favored the allowance of six per cent. interest

Mr. KIMBALL thought the good accomplished in the defense of the action alluded to was worth something. The *Sentinel* Company presented a similar claim for interest, and as they had abundantly abused the Legislature for that action they were not deserving of more, and he as a representative of the *Journal* Company was willing to fix the rate of interest at six per cent.

The motion to fix the interest at six per cent. prevailed, and the report, as amended, was concurred in, and referred to the Committee on Ways and Means, with instructions to incorporate it in the specific appropriation bill.

The committee reported a like bill from the *Sentinel* Company, which was similarly disposed of.

Mr. WALKER, from the Judiciary Committee, returned Mr. Isenhower's bill [H. R. 89] to amend sections forty-nine and eighty-seven of the act providing for the settlement of decedent's estates, recommending its indefinite postponement.

Mr. MILLER returned Mr. Baxter's bill [H. R. 93] to amend section sixteen of the act to enable persons whose wives are insane to convey real estate, recommending indefinite postponement.

Mr. WOOLLEN returned Mr. Wood's bill [H. R. 74] to amend section nine of the practice act of June 17, 1852, recommending its indefinite postponement; and these reports were severally concurred in.

Mr. SHIRLEY returned his bill [H. R. 30] to amend section 445 of the practice act of June, 1852, with amendment striking out second and third sections. [It provides that where property fails to sell under execution, on the first offer, it may be sold thereafter, by legal notice, for not less than one-half the valuation.]

The amendments were concurred in, and after explanation by Messrs. Woollen, Given, Shirley and Broadus, the bill was ordered to the engrossment.

Mr. OGDEN returned Mr. Cobb's bill [H. R. 91] to amend the act of 1852, concerning promissory notes, bills of exchange, etc., and the act of March 11, 1851, recommending indefinite postponement.

It was concurred in.

Mr. Johnson, from the same committee, reported back House bill No. 35, to amend the practice act—declaring who shall be competent witnesses, with an amendment to the first section, and a further amendment striking out the second section, and substituting a new bill instead.

The SPEAKER could not understand the report.

Mr. JOHNSON explained it, but the mystery was not cleared up.

A motion was made to adjourn, but withdrawn. Meanwhile the report of the Judiciary Committee was undisposed of, and was passed over in an informal way, the Speaker insisting that the committee should amend its report, and the Chairman remarking that the committee could not do it.

Mr. GREGORY, by unanimous consent, introduced a bill [H. R. 133] to repeal sections fifty-four and fifty-eight, and amending section forty-seven of the practice act, with regard to amendments in pleadings.

It was referred to the Committee on the Judiciary.

Mr. GREGORY, a bill [H. R. 134] to fix the time of holding courts in the Twelfth Judicial Circuit, (embracing the counties of White, Newton, Jasper, Benton and Tippecanoe.)

It was referred to a select committee interested.

Mr. Gronendyke, Mr. Winn and Mr. Jones, obtained leave of absence for to-morrow.

On motion of Mr. KING the Committee on Railroads was authorized to employ a clerk.

MEMORY OF THE HON. NORMAN EDDY.

Mr. HENDERSON, from the special committee to whom was referred so much of the Governor's Message as refers to the memory of the Hon. Norman Eddy, submitted a report rehearsing the leading facts and events of the public life of Col. Eddy, and the estimation in which his memory is held by the House and the country, and recommending the adoption of the following;

RESOLVED, That we have learned with profound regret of the death of Colonel Norman Eddy, and feel that the State in his death has lost a valuable and worthy citizen.

RESOLVED, That the House specially commends the noble action of his Excellency, Governor Baker, in filling the vacancy in the office of Secretary of State caused by his death, and hope the precedent will never be departed from in future by any one having the power of appointment in like cases.

RESOLVED, That appreciating the ability and eminent public services rendered the country in council and in the field by the decedent we commend his widow and children to the sympathy and tender regard of his fellow citizens without regard to party predilections.

RESOLVED, That a copy of the above resolutions be forwarded to the family of the decedent by the Clerk of this House.

The report of the committee was concurred in, and the resolutions were adopted by a rising vote.

The House then adjourned.

THE

BREVIER LEGISLATIVE REPORTS.

THIRTEENTH VOLUME.

INDIANA LEGISLATURE.

IN SENATE.

WEDNESDAY, November 27, 1872.

The Senate met pursuant to adjournment, President Friedley in the chair.

The Rev. S. S. Hunting, pastor of Unity Church, opened the session with prayer.

On motion the reading of the Secretary's minutes were dispensed with.

BASTARDY.

On motion of Mr. BROWN the order of business was dispensed with, and he returned from the Judiciary Committee the bill [S. 36] to regulate proceedings in bastardy with a substitute therefor, viz: a bill to amend sections 15 and 17 of the act of May 16, 1852, regulating prosecutions in cases of bastardy and providing for the support of illegitimate children, so that the testimony of the prosecuting witness may be perpetuated, and the prosecution may be commenced before a justice of the peace; and requiring the court to demand security for the proper expenditure of the money for the support of the child; that the suit may be dismissed by the prosecuting witness, when provision has been made by the reputed father for the maintenance and education of the child, the terms of provision to be filed with the records of the court; and where the prosecuting witness is an unsuitable person to have the custody of the child and of the funds for its support, the court may appoint a suitable person who shall give security for the faithful performance of his duty.

Mr. NEFF hoped the Senate would refuse to concur in this report of the committee, for he desired to see this class of cases taken out of the hands of justices and placed in the Circuit and Common Pleas Courts, as his bill [S. 36] provides.

He hoped the amendment giving jurisdiction in these cases to Justices of the Peace would not be adopted. It rendered the prosecutions more expensive to the prosecuting witness, and was less satisfactory than where the prosecutions are commenced in the Circuit or Common Pleas court.

Mr. N. said that cases of this kind should always be commenced in courts of record. Every one who has had any experience in practicing before Justices knows that in a majority of cases the trials of such causes are but farces. He preferred the Senate should not adopt the report of the committee, but on the contrary perfect and adopt the original bill, changing the jurisdiction of such cases from Justices' courts to courts of Common Pleas and Circuit Court. He believed the provisions to be just. When a member of the House of Representatives, in 1867, he offered a similar bill which passed the House but failed to pass the Senate. He really believed a law should be passed which would give bastard children some rights. Legal gentlemen know how often putative fathers take advantage of the mother by giving her what they call satisfaction, but which is really no satisfaction, and thus the ends of justice are defeated. The object of the law is to

secure a support and the means of education for the child. He never knew of a settlement in such a case but what the object of the law has been defeated. Generally these men are shrewd men who take advantage of the mother and get her to come into court and say that proper allowance has been given her and that satisfaction has been made, when such is not the case. He thought these cases should be taken out of Justices' courts and given into more competent hands to try.

The report of the committee was concurred in.

REPORTS FROM THE JUDICIARY COMMITTEE.

Mr. BROWN, from the Judiciary Committee, returned the bill [H. R. 22] to amend the first section of the act of March 4, 1865, for the completion of the unfinished business of any General Assembly by the succeeding session of the same General Assembly, with a report recommending its passage.

It was concurred in.

Mr. BROWN also returned a bill [S. 28] on the same subject, recommending it be laid on the table.

The report was concurred in.

He also returned from the same committee the bill [S. 16] authorizing suits to be brought in partnership name only in certain cases, with a substitute therefor, entitled "An act authorizing suits to be brought in the partnership name, and repealing all conflicting laws," providing that where a partner has failed to contribute to the capital the amount due by him to carry on the business, and there shall be outstanding debts against the partnership, it shall be lawful for any other partner who has contributed his full quota to sue the delinquent in the name of the partnership, the amount recovered to be paid for the benefit of the partnership.

The report was concurred in.

He also returned the bill [S. 20], from the same committee, relating to the sale of real estate on execution owned by husband and wife, with a report that it lay on the table.

It was concurred in.

He also returned from the same committee Mr. Neff's bill [S. 19] to amend the divorce law, recommending that the bill be laid on the table.

It was concurred in.

THANKSGIVING RECESS.

Mr. BROWN said that inasmuch as it is understood that the Senate will adjourn from a little after noon to-day till Monday, he moved to suspend the regular order of business that bills on the second reading may be read and referred to appropriate committees. He withheld his motion for—

ADDITIONAL PAY WANTED.

Mr. THOMPSON, who presented a communication from the Adjutant General of the State, setting forth the duties of the office, and praying for increased compensation—$3,300 in addition to what he has already received.

It was referred to the Committee on Claims.

BOUNDARY LINES.

Mr. BOWMAN, from the select committee thereon, returned the bill [S. 50] to define more correctly the boundary line between Clark and Washington counties, with a recommendation that it be passed.

It was concurred in.

Mr. BROWN renewed his motion to take up bills on the second reading.

The motion was agreed to.

WORK FOR COMMITTEES.

The following described bills were read by title and referred to appropriate committees:

Mr. SMITH'S bill [S. 83] defining the offense of libel and prescribing punishment therefor.

Mr. STROUD'S bill [S. 84] to protect citizens of Indiana from empyricism and to elevate the medical profession.

The bill [H. R. 7] providing that justices shall have exclusive jurisdiction in certain misdemeanors.

The bill [H. R. 27] concerning interest on judgments.

The bill [H. R. 32] to fix the terms of the Sixteenth Judicial District Court.

SCHOOL HOUSES.

Mr. RHODES, by leave, introduced a bill [S. 86] for an act to amend section one of the act authorizing cities and towns to issue bonds to build and complete school houses, and authorizing the levy of an additional tax for payment thereof, approved March 11, 1867, which was read the first time and passed to the second reading. —[It authorizes cities and towns to negotiate a sale of bonds not exceeding $40,000 in the aggregate, to procure means to complete school buildings, etc.]

PLANK ROAD ASSESSMENT.

Mr. GLESSNER moved that the committee having in charge the bill [S. 31] report the same back, in order that it may be printed.

The motion was rejected.

FEDERAL BUILDINGS IN EVANSVILLE.

Mr. GOODING, by leave, introduced a bill [S. 87] for an act granting the consent of the State of Indiana, for the purchase by the United States Government, of land situated in the city of Evansville, on which to erect a postoffice building, which was read the first time and passed to the second reading.

A MESSAGE FROM THE GOVERNOR

Transmitting a report of the Trustees of the Deaf and Dumb Asylum, was received at the hands of the Executive Messenger, in which His Excellency recommends the passage of a concurrent ressolution ordering the printing of five thousand copies of said report.

TWENTY-FIFTH COMMON PLEAS.

Mr. DWIGGINS moved to suspend the regular order and take up the bill [S. 8] for an act providing for the holding of courts in the Twenty-fifth Common Pleas District, of the State of Indiana—Miami, Cass and Pulaskt.

The motion was agreed to, the bill was read the third time and passed the Senate by yeas 45, nays 0.

On motion by Mr. DWIGGINS, the title was amended by adding the words "and declaring an emergency."

ORDER OF BUSINESS.

Mr. BROWN moved to take up the order of introduction of bills.

On motion by Mr. O'BRIEN, the motion was laid on the table.

BANKS.

Mr. DAUGHERTY moved to take up his bill [S. 2] to incorporate banks.

On motion of Mr. BROWN, the motion was laid on the table.

CLAIMS COMMITTEE REPORT.

Mr. BEESON, from the Committee on Claims, returned the claim of George T. Carr for clerking at the last session, with a recommendation that it be indefinitely postponed, this clerk having received five dollars a day for each day of that session.

On motion by Mr. DITTEMORE, the report was laid on the table, in the absence of the Senator from Grant, who presented the claim.

BIRD AND SARNIGHAUSEN CONTEST.

Mr. NEFF, from the Committee on Claims, returned the claim of John Sarnighausen of $191 for expenses incurred in the contest of his seat last session.

Mr. BROWN moved to add a provision allowing the same amount to the contestee Ochmig Bird.

Mr. NEFF said there was no claim filed by Senator Bird. The committee simply allowed the actual cash outlay to Senator Sarnighausen. If Mr. Bird's expenses were the same Mr. N. would not object.

Mr. BROWN knew Mr. Bird's expenses to be more than the sum named. He modified his motion, so that the report may be recommitted with instructions to include an appropriation in favor of Mr. Bird, which motion was agreed to.

PAY TO COMMITTEEMEN.

Mr. DITTEMORE offered a resolution that the Senate Committee on Military Affairs of 1871 be allowed thirty dollars each for expenses incurred in visiting the Soldiers' Home.

On motion by Mr. COLLETT it was referred to the Committee on Claims.

ALLEGED FRAUD IN PUBLIC PRINTING.

Mr. SLATER offered the following:

WHEREAS, It has been a matter of repeated allegation on the part of the public prints, that during a period when William R. Holloway, Samuel M. Douglass, and Alexander H. Conner were State Printers, it became and was the practice and custom of said State Printers to file false and forged vouchers with the Auditor of State, for the false and pretended purchase of paper for the use of the State; that under such "raised" false and fraudulent vouchers the State was defrauded out of large sums of money, a portion of which has been reimbursed to the Treasury of the State; and, whereas, the evidence of said frauds perpetrated upon the Treasury, will aid in a knowledge of the facts necessary for the legislation required to recover said sums of money and effectually prevent the repetition of such offenses in the future; therefore be it

RESOLVED, That the President of the Senate appoint a special committee of five members of the Senate with power to send for persons and papers to investigate said charges and report the result of their investigations, together with the evidence elicited thereby to the Senate, for its action.

On motion of Mr. O'BRIEN it was referred to the Committee on Public Printing.

SUPREME COURT REPORTER.

Mr. SLEETH offered a preamble and resolution setting forth that by law the Reporter of the Supreme Court is required to cause to be printed and published the decisions of said Court within six months of the end of the term at which they are made, that the reports have been brought up only to the end of the November term of 1870, and requesting the Clerk to furnish a statement of the decisions made since that time up to and including the May term of 1872, the number of volumes the same will make when printed, and the reasons why the reports have not been

fore been made and published according to law.

It was adopted.

RESOLUTIONS.

Mr. HOUGH offered a resolution instructing the Secretary of State to enquire into the cause of the delay in printing the Governor's message and to take measures to secure its immediate printing and distribution.

It was adopted.

Mr. SCOTT offered a resolution looking to the better ventilation of the Senate chamber.

It was referred to the Committee on Public Buildings.

ASYLUM REPORT.

Mr. THOMPSON introduced a resolu- that 5,000 of the report of Trustees of the Institution for the Deaf and Dumb, be printed; 3,000 for the Senate, and 2,000 for the Superintendent of the Institution, pending which

A MESSAGE FROM THE HOUSE.

Messrs. Representatives Cauthorn and Kimball appearing at the door of the Senate with a message from the House of Representatives, the doorkeeper of the Senate announced a "message from the House."

Representative Cauthorn addressed the President, and, being recognized as "Mr. Cauthorn," announced that the House of Representatives were now in waiting and ready for the Senate to appear in joint convention of the two houses, for the purpose of comparing the vote cast by the Senate and House yesterday noon, for Senator of the United States.

On motion of Mr. COLLETT, the Senate repaired at once to the Hall of the House of Representatives for the purpose indicated in the message, preceded by the President, with the House messengers on either side of him, and Senators following in pairs, arm-in-arm.

And when the PRESIDENT resumed the Chair—

The Senate took a recess till two o'clock p. m.

AFTERNOON SESSION.

On reassembling at two o'clock, the order for the introduction of new bills was announced.

Mr. CHAPMAN introduced a bill [S. 88] for an act to authorize the construction of levees, dykes and drains, which was read the first time and passed to the second reading. [It provides for corporations and a clause prohibiting the mortgaging of assessments and the issuing of bonds thereon.]

THE SCHOOL FUND.

Mr. GOODING introduced a bill [S. 89] to provide for the issuing of a non-negotiable bond to the school fund, for money advanced by or borrowed from the school fund of the State, including interest, which was read the first time and passed to the second reading.

Mr. STEELE introduced a bill [S. 90] to amend section twenty-four of the act of May 16, 1852, regulating descents and the apportionment of estates, which was read the first time and passed to the second reading. [The bill provides that where a man dies intestate and leaves a widow and child, or children not exceeding two, the personal property of such intestate shall be equally divided between the widow and the child or children, but if the number of children exceed two the widow shall not be reduced below one-third; provided that if a man marry a second or subsequent wife, the use and possession of the lands which at his death descended to the wife, shall be free to her from the demands of his creditors for life, and at the death of such widow the remainder of such real estate, not required for the payment of his debt, shall descend to the children of such husband.]

MARRIED WOMEN.

Mr. ORR introduced a bill [S. 91] declaring the real estate of a married woman liable for debts contracted by her for necessaries furnished for her family, or for work or labor done on such real estate, which was read the first time and passed to the second reading.

Mr. HUBBARD introduced a bill [S 92] for an act to amend section sixteen of the act of May 6, 1852, concerning real property and the alienation thereof, which was read the first time and passed to the second reading. [Providing that every conveyance, lease or mortgage, shall be recorded, and if not recorded shall be fraudulent and void against subsequent purchaser in good faith and without notice.]

NUMBER OF JURORS.

Mr. RINGO introduced a bill [S. 93] for an act limiting the number of grand and petit jurors in the courts of this State. [Grand juries to consist of six, and petit juries to consist of six members.]

It was read the first time and passed to the second reading.

HOMES FOR THE FRIENDLESS.

Mr. THOMPSON introduced a bill [S. 94] for an act concerning Homes for Friendless Women, the collection of fines and forfeiture, and declaring an emergency. [In cities where Homes for Friendless Women are established, all fines assessed and collected from houses of evil fame or from the suppression of vice shall be paid over to such Homes.]

It was read the first time and passed to the second reading.

FOR A NEW DRAINAGE LAW.

On motion of Mr. CHAPMAN, the constitutional restriction was despensed with—yeas, 38; nays, 0, and his bill [S. 88] introduced this afternoon, was read by title and 200 copies ordered to be printed.

NEW PROPOSITIONS.

Bills for acts were introduced, read the first time and severally passed to the second reading.

By Mr. SCOTT, a bill [S. 95) for an act to protect rivers, streams or bodies of water from which water is taken for the supply of any city or town or benevolent institution in this State. [To prevent the fouling of rivers, streams or ponds of water from which any city, town, village or benevolent institution draws its supply of water, by the casting therein, within ten miles of the water-works of any carcass, offal or other substance calculated to render the water impure, foul or objectionable. The penalty is fixed at not less than $500 and not exceeding $1,000 for each offense, to which may be added, at the discretion of the Court or jury, imprisonment in the county jail for not more than one year.]

By Mr. WADGE, a bill [S. 96] for an act to encourage manufacturing in the State of Indiana and legalizing the conveyance of real estate to foreign manufacturing companies [not exceeding forty acres.]

By Mr. COLLETT, a bill [S. 97] for an act to provide for the organization of an experimental school for the education of idiotic or feeble-minded children [appropriating $25,000 therefor.]

By Mr. COLLETT, a bill [S. 98] for an act to prevent carrying concealed or dangerous weapons and to provide punishment therefor, and repealing all conflicting laws. [Every person not being a traveler who shall carry a concealed deadly weapon, or slung shot, or wear such openly with the avowed purpose of injuring his fellow man shall be punished on conviction.]

By Mr. COLLETT, a bill [S. 99] for an act to authorize sureties upon notes, bills, bonds or other sureties in writing who have been compelled to pay for their principal, to collect from the principal interest on such amounts at the rate named in such original contracts.

By Mr. DAGGY, by request, a bill [S. 100] for an act to amend sections 352 and 354 of the general practice act.

By Mr. COLLETT, a bill [S. 101] for an act concerning contracts with railroad companies in this State for carrying freight and passengers.—[To authorize any railroad company connected with another railroad to make such contracts with such other company for the transportation of freight and passengers as to the Board of Directors may seem proper, and legalize all such contracts heretofore made in good faith.]

By Mr. HUBBARD, a bill [S. 102] for an act to repeal all laws providing for the appraisement of property taken on execution, or any final legal process.

By Mr. SMITH, a bill [S. 103] for an act to amend section 78 of the common school law. [Satisfaction of mortgages to the school fund shall be entered by the Recorder in certain cases.] [The amendment provides that whenever the amount due on any mortgage is paid, and the receipt of the Treasurer is filed, the Auditor shall indorse on the note and mortgage that the same has been fully satisfied, and surrender the same to the person entitled thereto, etc.]

By Mr. ORR, a bill [S. 103] for an act to repeal the plank and gravel road assessment act of May 14, 1869, and authorizing companies who have commenced roads under the provisions of said act to complete the same.

CLAIMS.

Mr. ORR also presented the claims of the *Daily* and *Weekly Commercial* for $40 for papers furnished the Senate.

They were referred to the Committee on Claims.

MARRIED WOMEN.

Mr. NEFF moved to suspend the order of business and take from the table the report of the Judiciary Committee, on the bill [S. 26] to amend section 18 of the act regulating descents and the apportionment of estates, approved May 14, 1852.

The motion was agreed to.

Mr. NEFF moved to amend the report by changing the recommendation from that of indefinite postponment to a recommendation that the bill be put upon its passage. He believed it was time to change the old idea that married women can do nothing; that she is so swallowed up in marriage that she can do no legal act in

herself. He said the amendment provided that a widow holding real estate who should marry a second or subsequent time, may alienate her estate with the assent of her husband, and the proceeds shall be her separate property. The present statute he conceived to be wrong, and the amendment would do nothing but justice. Widows thus situated, who marry again, sometimes own unimproved real estate, from which they derive no income, but on which they have to pay taxes, and which thus becomes a burden to them. And yet under the present law, they can not rid themselves of the burden, even with the consent of their husbands. He thought it simple justice to allow a woman to sell her property, sue for the purchase money, reinvest it, and exercise all the rights to which she would be entitled as an unmarried woman. He believed it was time to permit women to act for themselves, and that we should educate them to do business and be independent.

Mr. GLESSNER [Mr. Hubbard in the chair] said the bill was considered by the Judiciary Committee, but one member of which committee was now in the Chamber. Many seats are now vacant with the understanding that no business was to be done this afternoon, and yet there has been brought up one of the most important bills of the session. He moved to lay the motion to amend on the table.

The motion was agreed to.

PAPERS FOR EMPLOYES.

Mr. WADGE offered a resolution instructing the Doorkeeper to furnish the employes daily a copy of the daily *Journal* and *Sentinel*.

It was adopted.

And then the Senate adjourned till Monday, at two o'clock.

THE

BREVIER LEGISLATIVE REPORTS

THIRTEENTH VOLUME.

INDIANA LEGISLATURE.

HOUSE OF REPRESENTATIVES.

WEDNESDAY, November 27, 1872.

The House met at nine o'clock a. m.

The SPEAKER directed the reading of the journal of yesterday, the record with reference to the Senatorial election.

On motion of Mr. LENFESTY, the further reading was dispensed with.

REPORTS FROM COMMITTEES.

Mr. EDWARDS of Lawrence, from the Committee on Organization of Courts, returned Mr. Offutt's bill [H. R. 104] to amend the seventy-eighth section of the practice act of June 17, 1852, (with reference to change of venue), recommending its passage.

It was ordered to the engrossment.

Mr. CLAYPOOL returned Mr. Wilson of Ripley's bill [H. R. 118], making parties competent witnesses in cases of assignments of contracts to decedents, recommending its passage.

It was ordered to be engrossed.

Mr. HEDRICK, from the Committee on Rights and Privileges, returned Mr. Satterwhite's bill [H. R. 101], to protect the citizens of the State from empyricism in the medical profession, with an amendment striking out the third section, which was concurred in, and, as so amended, the bill was ordered to the engrossment.

Mr. PFRIMMER returned Mr. Clarke's bill [H. R. 106] to amend the fish law, recommending its indefinite postponement.

The report was concurred in.

Mr. CLARK returned Mr. Hedrick's bill [H. R. 107] to amend section one of the fish law of February 22, 1871, [it prohibits fishing in March, April, May, November and December, excepting in the Ohio river], recommending its passage.

It was ordered to the engrossment.

Mr. HEDRICK returned the bill to authorize persons desirous of erecting a flouring mill on their own land, to make a race below, etc., approved March 1, 18[illegible] recommending its passage.

It was ordered to be engrossed.

Mr. BRANHAM, from the Committee on Railroads, returned his bill [H. R. [illegible] to enable counties bordering on State line to aid in the construction of railroads opposite, etc., recommending its passage. He said that a railroad (the Cumberland and Ohio RR.) is now being constructed through the States of Tennessee and Kentucky, and they are willing to make the city of Madison a terminus upon that condition furnishing the aid which this bill authorizes. It is likely to affect no other county in the State but ours (the county of Jefferson) and will greatly benefit us—make us a hundred miles nearer to the market of the South.

The bill was ordered to the engrossment.

Mr. REEVES, from the Committee on Roads, returned Mr. Billingsley's bill. [H. R. 97] recommending its indefinite postponement.

It was concurred in.

Mr. KIMBALL submitted the following which was adopted by unanimous consent:

RESOLVED, That the Committee on Ways and Means be instructed to embrace in the specific appropriation bill the sum of $445 to defray the expenses of the funeral of the late Norman Eddy.

Mr. BAKER, submitted sundry claims, which were referred without reading.

The SPEAKER proceeded to call the House by counties and districts for

NEW PROPOSITIONS.

Mr. GIVEN. A resolution (which was adopted) that the Auditor of State be requested to furnish, for the use of members, the advance sheets of so much of his forthcoming report as pertains to the Sinking Fund.

Mr. MELLETT. A resolution that a committee of five be appointed to determine, and adopt means for the better ventilation and heating of the hall of the House; that they instruct the doorkeeper accordingly; and that the doorkeeper be held strictly responsible for carrying out this order.

It was adopted, and the SPEAKER appointed thereunder Messrs. Mellett, Glazebrook, Jones, Satterwhite, and Lenfesty.

Mr. THOMPSON, of Elkhart, a bill [H. R. 135] to amend section two of the act to provide for the redemption of real property, or any interest therein, sold on execution or other order of sale, approved June 4, 1861. [It provides conditions by which the judgement debtor may retain possession one year after sale.]

It was referred to the Committee on the Judiciary.

Mr. LENFESTY, a bill [H. R. 136] to amend section 454 of the practice act of June 18, 1852.

It was referred to the Judiciary Committee.

Mr. KING presented the claim of Gallup & Co., which was referred.

Mr. JOHNSON (by unanimous consent) returned from the Judiciary Committee his bill [H. R. 35] to amend sections 90 and 103 of the practice and procedure act of June 17, 1852 (with reference to witnesses and precedence in pleadings in criminal actions), with amendments; striking out from the fourth clause of section 1 the word "defendant;" and inserting in lieu these words: "at his own request, but not otherwise, nor shall his refusal to testify create any presumption against him nor shall any reference be made to or comment on such refusal;" and striking out all of section 2; and so amended the committee recommended the passage of the bill.

The report was concurred in, the amendments adopted, and the bill ordered to be engrossed.

Mr. JOHNSON also reported from the Judiciary Committee an original bill [H. R. 137] to amend section 103 of the practice and procedure act in criminal causes approved June 17, 1852 (amending the order of trial. Mr. J. stated that it is a verbatim copy of the second section of his bill [H. R. 35] which he recommended to be stricken out, and in which the House had just concurred.)

The bill was passed to the second reading.

Mr NORTH, a bill [H. R. 138] to amend the third section of the act to authorize cities and towns to negotiate and issue bonds for school buildings, approved March 11, 1867.

It was referred to the Committee on Education.

Mr. NORTH, a bill [H. R. 139] regulating the expenses incurred by any county by a change of venue from another county. [The county from which the change is taken shall be liable for the expenses incurred in consequence of such change, including the expenses of keeping prisoners, etc.]

It was referred to the Judiciary Committee.

Mr. WOODARD, a resolution that the the three committees meeting in the Singer Sewing Machine Company's rooms be allowed a room keeper, and that the special Committee on Employes be discharged. It was adopted on a division—affirmative, 32; negative, 22.

Mr. WOODARD, a bill [H. R. 140] repealing the act of February 22, 1871, for the protection of fish.

It was referred to the Committee on Agriculture.

Mr. MELLETT, a bill [H. R. 141] to amend section 7 of the divorce act. [Causes: adultery and extreme and continued cruel treatment: provided, that no marriage of divorced persons shall be legal if solemnized within five years after the decree of divorce.]

It was referred to the Judiciary Committee.

Mr. SMITH, a bill [H. R. 142] to give a lien to lessors in certain cases, prescribing certain duties of lessors and exempting growing crops from sale by lessors till matured.

Mr. BUTTERWORTH, a bill [H. R. 143] to amend section 1 of the act to incorporate the University of Notre Dame Du Lac at South Bend, St. Joseph county.

It was referred to the Committee on Corporations.

Mr. COWGILL, a bill [H. R. 144] to provide for the crossings of railroads, the keeping in repair of such crossings, and providing for the expense thereof; [the

railroad company last constructing their road to be at the expense of constructing such crossings—the expense of keeping them in repair to be borne jointly.]

It was referred to the Committee on Railroads.

INDIANA UNIVERSITY.

Mr. MELLETT asked and obtained unanimous consent to return from the Committee on Education Mr. Odle's bill [H. R. 50] appropriating $20,000 annually for the use of Indiana University at Bloomington, Indiana, to be paid semi-annually—the committee recommending its passage.

Mr. RICHARDSON moved to amend the bill by striking out the word "twenty" and inserting in lieu the word "ten."

Mr. MELLETT would say in reference to this bill and this appropriation, that they have become absolutely necessary, if we intend to maintain a State University and support it in a becoming manner—in a manner that is commensurate with the wants of the State. There were now three hundred students in attendance at this institution, and nine professors in the literary department, and the halls are crowded so that it is impossible to do the students justice; and unless provision be made for their accommodation—to supply its growing wants—the university, instead of going forward, must retrograde. If this bill pass, a portion of the fund appropriated will be devoted to the support of the State Medical College, which is located in this city, and which has been incorporated with the State University; but so far no provision has been made to pay the professors, they having to seek support from students and from other sources. This is unbecoming in the great State of Indiana. The State of Michigan has a University which does her the greatest credit; and there is no reason why Indiana should be behind this much younger State of Michigan. We should feel a just public pride in keeping pace with other neighboring States, and there is no better way in which we can show it than by fostering the educational institutions of the State. If we do not so, the consequence will be to send our young men to the State of Michigan for education, and to give that State a prominence which I do not like to encourage.

I think the proposed appropriation will place the State University in such a condition that she will be on the road towards the purposes for which she was designed, and beyond the reach of fatal accidents. I will submit a brief statement of the condition of Indiana University, and what this bill proposes to make it. It will engage nine professors in the literary department, at a salary of $2,000 each, and $2,500 for the President. This only adds one professor. There will be the President, and the chairs of Natural Philosophy, Chemistry, Greek, Latin, Pure Mathematics, Applied Mathematics and English and Modern Languages and Literature. The professorship this bill adds is from the division of the class in chemistry into classes in chemistry and geology. It has been found necessary to divide that class, there being over sixty students in it. The bill increases the salary of the professors now restricted to $1,000, and unless the salary is increased the University will lose them. No professor can be kept in an institution of this kind for less than $2,000; for they are men, or should be men of the best talent and the highest order of literary attainments which the country can afford. There are now two professors in the law department, and the trustees propose to give these a salary of $2,500. In reply to a question by Mr. Woollen, he stated that the institution has for present resources the revenue from the endowment fund of $7,000 per annum, and there is an existing statute granting the University $8,000 per annum. The appropriation proposed in this bill would make the total resources of the institution $35,000 a year. Out of this it is proposed to set apart $7,500 for the support of the medical department—its incidental expenses. So far as these statistics are concerned, he very much regretted that we have not yet the catalogue of the University containing the report of the trustees, which would give the House all necessary information on the subject.

Mr. MILLER, Considering that we have a very scant House, I move to postpone the further consideration of this bill till Monday at half-past two o'clock.

Mr. BRANHAM hoped that the special order would not be made. He supposed that no member of the House is aware of the amount of appropriations which the various institutions of the State are asking for. Whether they are asking for more than they ought to have he did not pretend to say; but one thing he was very certain of, that they are asking for much more than there is now, or will be, in the State treasury. It might be good policy in the first place to see what amount of funds we have, and then make the appropriations. We ought to cut our garment according to the cloth. He would be glad to see the University well cared for; but this is not all they ask for, and are not the

plans of the University improvements based upon the supposition that the State will aid them? He was about to move to lay the subject on the table—not from any hostile disposition toward the institution, but from a desire, if we can not give them all they want to give them a part. But then he wanted the bill to state distinctly when these funds shall be drawn from the treasury. He did not want to commence by giving so large an amount to one institution as to preclude the giving of any thing to the rest. He moved that the bill be laid upon the table for the present, so that it may be called up at the proper time.

The motion was agreed to.

Mr. SHIRLEY, a bill [H. R. 146] to prohibit the destruction of ditches, drains and running streams of water, and provide a penalty for the violation of this act.

OHIO AND WABASH RIVERS.

On motion of Mr. GIVEN, the joint resolution from the Senate in relation to the improvement of the Ohio and Wabash rivers was taken up; and thereupon arose some debate by Messrs. Furnas, Given, Branham and Schmuck, hesitating about the sweeping language of the joint resolution, which might include expensive works on these rivers and their tributaries.

Mr. BRANHAM. If I am not mistaken a corps of engineers have already reported the practicability of the improvement of the Wabash River at a moderate cost, and they are now at work upon it.

Mr. THAYER. It seems from the reading that the object is to make the Ohio and Wabash improvements sufficient to carry all the boats at this time navigating them.

Mr. GIVEN. It is only recommendatory: I think there is nothing wrong in the wording of the resolution. I will call for the reading of it again—without the preamble.

It was again read by the Clerk.

Mr. BRANHAM. The language is rather too indefinite. To say "all boats on the river" is a little out of the question: and if you strike out "the tributaries," it would still be asking rather too much. I am decidedly in favor of the resolution, and I believe every member of the House will vote for it if properly worded. The engineers think it is entirely practicable to make the Ohio navigable for vessels drawing from five to seven feet—and the Wabash too: but to ask to make these rivers navigable for all boats requiring ten to twelve feet of water is asking entirely too much.

Mr. GIVEN. It seems to me that there is no indefiniteness in the language there. It does not apply to any but such streams as are used for navigation. The object is to make navigation practicable wherever boats are used.

Mr. SCHMUCK. Several days ago I introduced a resolution for this same purpose. I think, perhaps, that would be more acceptable to the House, and would like to have it read.

On motion of Mr. KING, the joint resolution was referred to the Committee on Manufactures and Commerce.

On motion of Mr. CAUTHORN, the joint resolution with reference to the same matter, introduced the other day by Mr. Schmuck, was recalled from the Committee on Federal Relations, and referred to the same committee with the Senate proposition.

Mr. FURNAS submitted a resolution that the Committee on Temperance be instructed to prepare and report a bill to prohibit the sale of intoxicating liquor in any city, town or township, unless the majority of the voters shall petition therefor.

Mr. CAUTHORN moved that it be referred to the Committee of the whole House, and made the special order for Friday at ten o'clock.

Mr. KIMBALL moved to refer it to the Committee on Reformatory Institutions.

Mr. RUMSEY proposed to amend the resolution by inserting "requested" instead of "instructed."

The motion was agreed to.

Mr. GIFFORD moved (ineffectually) to refer the resolution to the Committee on Swamp Lands. [Laughter.]

Mr. Cauthorn's motion was rejected; and then the resolution was rejected.

On motion of Mr. BAKER the House took a recess of twenty minutes.

LEGISLATIVE ETIQUETTE.

When the house was called to order, Mr. CAUTHORN moved that, in order to receive the Senate with the courtesy due from one body of this Legislature to the other, the seats on the right of the hall be vacated for their use, and that a committee of two be appointed to wait upon the Senate, inform that body that the House, in pursuance of the concurrent resolution, is ready to meet it in joint convention, and to escort it to the hall of the House.

The motion was agreed to, and the Speaker appointed Messrs. Cauthorn and Kimball a committee to wait upon the Senate.

JOINT CONVENTION—SENATOR MORTON'S ELECTION.

The SPEAKER, just before 12 o'clock

M., directed the preparation of the hall for the reception and seating of the Senate on the right, and at the specified time the officers and members of the Senate appeared and were seated on the right, the President of the Senate presiding on the right of the Speaker.

The PRESIDENT of the Senate—Gentlemen of the Senate and House of Representatives, we have met in joint convention in pursuance of a joint resolution of the two houses of the General Assembly, and in obedience to the statute of the United States, to compare and count the vote cast yesterday for United States Senator. The Secretary of the Senate will now read so much of the Senate journal of yesterday as pertains to that election.

The reading showed that O. P. Morton received 27 votes, and J. D. Williams 21 votes. Whole number of votes cast, 48; necessary to a choice, 25. Honorable O. P. Morton having received a majority was declared to be duly elected United States Senator on the part of the Senate.

The SPEAKER. The Clerk of the House will now read the proceedings of the House of Representatives which relate to the election of United States Senator.

The reading showed the number of votes cast for O. P. Morton, 54. The number for J. D. Williams, 41; whole number 95, of which O. P. Morton received a majority.

Mr. Senator BROWN presented a preamble and resolution rehearsing the record of the vote of the two Houses, and resolving that the Honorable Oliver P. Morton be declared by this Convention duly elected United States Senator to represent the State of Indiana for six years from and after the 4th of March next.

The PRESIDENT of the Senate. It occurs to the Chair that the resolution is not in order, it being the duty of the Chair to announce this result. Therefore, I will declare that Oliver P. Morton, having received a majority of all the votes cast by the General Assembly for United States Senator, he is therefore declared to be duly elected a Senator of the United States for the State of Indiana, to serve six years from and after the 4th of March next.

The SPEAKER announced that the Honorable O. P. Morton is present, and no doubt gentlemen would be glad to see him.

Voices—"Morton," "Morton."

In response to this call upon him Senator Morton came forward and said: "Gentlemen of the Legislature, I came not here this morning to inflict a speech upon you, but simply to express my sincere acknowledgments for this great mark of your confidence; and that I shall have no motive but to do my duty to the nation and the State. I hope so to perform my duties that no man who voted for me yesterday will have cause to blush for having done so. I therefore express to you again my sincere thanks and take my leave."

The PRESIDENT now prorogued the Convention, and the Senate retired from the hall.

And then, on motion of Mr. BUTTERWORTH, the House adjourned till Monday, December 2, at two o'clock, p. m.

THE

BREVIER LEGISLATIVE REPORTS

THIRTEENTH VOLUME.

INDIANA LEGISLATURE.

IN SENATE.

MONDAY, December 2, 1872.

The PRESIDENT took the chair at twenty minutes after two o'clock p. m.

The Secretary's minutes of Wednesday's proceedings were read and approved.

Mr. O'BRIEN had indefinite leave of absence, on account of sickness in his family.

The names of the standing committees were called for reports, but none being presented—

IN MEMORY OF HORACE GREELEY.

Mr. GREGG offered the following:

WHEREAS, The Senate has heard with deep sorrow and regret of the death of Hon. Horace Greeley, and

WHEREAS, Wednesday, December 4, is fixed for the performance of his obsequies, and

WHEREAS, We recognize and fully appreciate the many valuable services he has rendered his country, therefore,

RESOLVED, That when the Senate adjourn on Tuesday afternoon, as a mark of respect to him it adjourn to December 5, at ten o'clock a. m.

Mr. GREGG said he would not move the adoption of this resolution at this time, as the day of Mr. Greeley's burial is not till day after to-morrow (Wednesday), but would consent to its laying on the table till to-morrow, at which time he should move its adoption.

It was so ordered.

STENOGRAPHERS.

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

RESOLVED, That the short-hand reporters of the Senate proceedings be supplied with such printed matter and stationery as may be allowed to members.

CLAIMS.

Mr. THOMPSON, by leave, submitted several claims against the State, which were referred to the Committee on Claims, without reading.

NEW PROPOSITIONS.

Bills for acts were introduced, read the first time and severally passed to the second reading:

By Mr. TAYLOR, a bill [S. 105] for an act to authorize the Court of Common Pleas to determine who the heirs, creditors or distributees of a descedent are, and to order a practical distribution of estates amongst heirs prior to a final settlement of the estate, and declaring an emergency.

By Mr. BROWN, a bill [S. 106] for an act to prescribe the qualifications of petit jurors in the several Courts of this State. [The bill provides that no person who has served as petit juror within one year of his selection to serve again, may serve either as juror or talesman.]

By Mr. NEFF, a bill [S. 107] for an act to secure the valuation and taxation of new Railroads.

By Mr. BROWN, a bill [S. 108] for an act in relation to the qualification of certain jurors in cases therein named. [The bill provides that hereafter no person shall be disqualified from acting as a juror in cases where the crime of treason or murder in the first degree is involved on account of his opinions on the subject of capital punishment, nor shall any person called as a juror be questioned on that subject.]

By Mr. SCOTT, a bill [S. 109] for an act to amend section thirty-one of the act providing for the organization of savings banks and the safe and proper management of their affairs, approved May 12, 1869.

By Mr. DAGGY, a bill [S. 110] for an act to repeal section eighteen and amend section twenty-four of the act of May 14, 1852, concerning and regulating descents and the apportionment of estates. [The amendment provides that if a married man die intestate, and leave a widow and a child or children, not exceeding two, his personal property shall be divided equally; but if he leave more than two children, the widow's share shall not be reduced.]

By Mr. NEFF, a bill [S. 111] for an act to amend section five of the railroad assessment and valuation act, to legalize valuation, adjustment and payment of taxes made subsequent to the year 1859.

CANAL REPAIRS.

Mr. BIRD moved to have the rules suspended so as to call up his bill [S. 23] to allow county commissioners to appropriate moneys to keep up and repair canals running in or through their counties. He made that motion.

It was agreed to.

On his further motion, the bill was referred to the Judiciary Committee.

A CLAIM.

Mr. SLEETH, by leave, presented a claim, which was referred to the Committee on Claims without reading.

HOUSE BILLS.

Bills received from the House of Representatives were read the first time, and severally passed to the second reading, as follows:

The bill [H. R. 8] to prevent hunting and shooting on enclosed lands, without the consent of the owner or occupant thereof, and to prescribe punishment therefor.

The bill [H. R. 26] to amend section nine of the act of June 9, 1852, to provide for the election and qualification of justices of the peace.

The bill [H. R. 37] authorizing and appropriating money ($8,000) for the use of the Indiana University at Bloomington, with which to pay its debts incurred in the years 1870 and 1871.

The bill [H. R. 49] creating the Twenty-second Judicial Circuit, and fixing the time of holding courts therein. [It makes Miami, Wabash and Huntington counties to constitute said District.]

The bill [H. R. 50] to amend section five of the act to discourage the keeping of useless and sheep-killing dogs, and to repeal the act to discourage the keeping of useless and sheep-killing dogs, approved March 11, 1861, and providing that nothing in this act shall be so construed as to conflict with the act of June 15, 1852.

The bill [H. R. 69] in relation to the settlement of the Supervisors of highways with Township Trustees, and defining the time of their settlement. [The annual settlement to be on the first Saturday in October of each year.]

The bill [H. R. 72] in relation to Criminal Circuit Courts, and to create the Twenty-ninth Judicial Circuit, and prescribing the Jurisdiction of said Court. [The county of Jefferson to have a Criminal Circuit Court.]

The bill [H. R. 81] to amend sections 2, 3, 4 and 6, of the relocation of county seats act, approved March 2, 1855, and to amend section 2 of the act of December 18, 1865, to amend the same; and the other amending act of February 24, 1869.

The bill [H. R. 95] authorizing cities and towns to make and adopt a survey and plat thereof.

The bill [H. R. 119] in relation to organizing the two Houses of the General Assembly, defining the duties of certain officers in relation thereto, and declaring an emergency. [The Secretary of State to organize the House and the Auditor of State to organize the Senate.]

The bill [H. R. 98] to make certain specific appropriations therein mentioned. [To the State Prison, south; to the Indiana House of Refuge; to pay existing indebtedness, and to pay expenses for fiscal year.] To appropriate $4,000 for the State Normal School; $1,199.11 for the Governor for repairing public buildings; $7,000 for the State Prison, south; $18,881.62 for the House of Refuge; $3,500 to pay other indebtedness for supplies; $4,000 to meet expenses up to the end of the fiscal year.

TERRE HAUTE RAILROAD.

Mr. BROWN offered a resolution that the Secretary of State be requested to furnish to the Senate Committee on Railroads a certified copy of the act and the amendments thereto incorporating the Indianapolis and Terre Haute Railroad Company.

The resolution was adopted.

WORK FOR COMMITTEES.

The following described Senate bills on the second reading were read by title only and referred to the appropriate committees.

Mr. Rhodes' bill [S. 86] to amend section 1 of the act authorizing cities and towns to issue bonds to raise money to pay for school houses.

Mr. Gooding's bill [S. 87] granting the consent of the State of Indiana to the purchase by the United States of certain lands in Evansville on which to erect public buildings.

Mr. Gooding's bill [S. 89] to provide for the issuing of a non-negotiable bond to the school fund for moneys heretofore borrowed by the State therefrom.

Mr. Sleeth's bill [S. 90] to amend section 24 of the descents and apportionment of estates law.

Mr. Orr's bill [S. 91] declaring the real estate of married women liable for debts contracted by her.

Mr. Hubbard's bill [S. 92] to amend section 16 of the act of May 6, 1852, concerning real property and the alienation thereof.

Mr. Ringo's bill [S. 93] limiting the number of grand and petit jurors in the Courts of this State.

Mr. Thompson's bill [S. 94] concerning homes for friendless women, and the collection of fines and forfeitures.

Mr. Scott's bill [S. 95] to protect from defilement rivers or bodies of water from which water is taken for the supply of cities or benevolent institutions.

Mr. Hubbard's bill [S. 96] to encourage manufacturing in the State of Indiana, and to legalize the conveyance of real estate to foreign manufacturing companies.

Mr. Collett's bill [S. 97] to provide for the organization of an experimental school for the instruction of idiots and feeble-minded children.

Mr. Collett's bill [S. 98] to prevent the carrying of concealed or dangerous weapons.

Mr. Collett's bill [S. 99] to authorize sureties who have been compelled to pay, to collect interest from their principals at the rate of the original contract.

Mr. Daggy's bill [S. 100] to amend sections 352 and 354 of the general practice act.

Mr. Collett's bill [S. 101] concerning contracts between railroad companies in this State, for the transportation of freight and passengers.

Mr. Hubbard's bill [S. 102] to repeal all laws for the appraisement of property taken on execution.

Mr. Smith's bill [S. 103] to amend section 78 of the common school law.

Mr. Orr's bill [S. 104] to repeal the plank and gravel road assessment act of May 14, 1869.

SUPREME COURT DOCKET.

The PRESIDENT submitted a communication from the Clerk of the Supreme Court, in reference to a resolution of the Senate, passed on the 25th of last month, embracing information to the following effect: The number of cases on the first day of January, 1871, were 700; the number of cases filed and entered from the first day of January, 1871, to November 25, 1872, 1,041; the number of cases decided or otherwise disposed of from the first day of January, 1871, to November 25, 1872, 1,075; the number of cases on the docket and undisposed of, 688.

It was referred to the Committee on the Organization of Courts.

And then came the adjournment till tomorrow at ten o'clock.

THE

BREVIER LEGISLATIVE REPORTS.

THIRTEENTH VOLUME.

INDIANA LEGISLATURE.

HOUSE OF REPRESENTATIVES.

MONDAY, December 2, 1872.

The House met at two o'clock p. m., pursuant to Wednesday's adjournment.

The SPEAKER directed the reading of the journal of Wednesday, which proceeded till on motion of Mr. WILLARD, its further reading was dispensed with.

The SPEAKER took up the order of the call of the House by counties for the introduction of bills and the presentation of petitions.

NEW PROPOSITIONS.

Mr. WESNER introduced a bill [H. R. 147] for regulating interest on the loan or forbearance of money or things in action and declaring an emergency. [At the rate agreed on, and where there is no agreement then six per cent.)

It was referred to the Committee on the Judiciary.

Mr. EDWARDS, of Vigo (Mr. Hardesty in the chair), introduced a bill [H. R. 148] for an act defining certain felonies and prescribing punishment therefor; compelling testimony of parties engaged therein against others than themselves; [bribery on the part of contractors on public buildings to be punishable with fine of $100 to $500—State Prison two years to ten years; officers of county or city compelled to testify.]

It was referred to the Committee on the Judiciary.

Mr. EDWARDS, of Vigo, introduced a bill [H. R. 149] for an act to amend sections 39 and 131 of the criminal practice and procedure act of June 17, 1852. [It regulates the filing of recognizances taken by peace officers.]

It was referred to the Judiciary Committee.

Mr. WESNER introduced a bill [H. R. 150] for an act to repeal section two of the act defining certain misdemeanors and prescribing punishment therefor, approved December 2, 1865. [The provoke law.]

It was referred to the Judiciary Committee.

Mr. CLARK presented sundry petitions for legislation to prevent the sale of intoxicating liquors used as a beverage.

It was referred to the Temperance Committee.

Mr. KIMBALL introduced a bill [H. R. 151] for an act to amend the act to declare abandoned certain unfinished railroads, and providing for their completion by the organization of new companies, and providing annual statements, approved March 2, 1867. [It requires all railroad companies to make out and file with the Auditor of State, on the first of February, annual specifically itemized statements of their condition, embracing officers' names, capital stock, indebtedness, receipts, expenditures, etc.]

It was referred to the Committee on the Judiciary.

Mr. KIMBALL. A bill [H. R. 153] to apply a like amendment to the twenty-fifth section of the act of May 11, 1852, to provide for the incorporation of railroad companies.

It was referred to the Judiciary Committee.

Mr. BRANHAM. A bill [H. R. 153] to provide for the calling of a convention of the people of the State of Indiana to form a Constitution for said State. [It provides for the election, on the —— day of May next of a number of members of a Constitutional Convention equal to the present number of members of the General Assembly, to be elected in the same way and by the same constituencies that members of the Legislature are elected. The bill is a voluminous one, and provides fully for the election, qualification, pay, etc., of the members, the manner of their organization, and of their work, and the mode of submitting the result of their labors to the people for their ratification.]

It was referred to the Judiciary Committee.

Mr. KING introduced a bill [H. R. 154] for an act to amend the act of May 12, 1864, to make appropriations for certain purposes, and to make provision for the necessary expenses of the benevolent institutions of the State. [When the General Assembly fails to provide, etc., it shall be lawful for the Governor monthly to direct the Auditor of State to draw his warrant on the Treasury for repairs and the necessary current expenses for the Hospital for the Insane, the Institutions for the education of the Deaf and Dumb, and for the Blind, for the Soldiers' Home and House of Refuge, the amounts to be determined on the certificate of the President of the Board, countersigned by the Superintendent of the Institution for which the warrant is drawn.]

It was referred to the Committee on Benevolent and Scientific Institutions.

Mr WALKER introduced a bill [H. R. 155] for an act to provfde for a general system of common schools in all cities of 8,000 or more inhabitants, and the election of school commissioners therein, and to make similar provisions for cities of less than 8,000 inhabitants. (School Commissioners to supercede School Boards of Trustees, etc.)

It was referred to the Commitiee on Education.

Mr. FURNAS presented sundry petitions on the subject of Temperance, which on account of ill health, he would be excused from describing.

They were referred (under the rules) to the Committee on Temperance.

Mr. FURNAS asked leave of absence from to-morrow noon till the day after to-morrow, for Mr. Baxter, that gentleman having an appointment to lecture in Mr. F.'s vicinity to-morrow evening.

The SPEAKER. Better wait till to-morrow. No doubt he can get the leave.

The House then adjourned till to-morrow morning, nine o'clock.

THE

BREVIER LEGISLATIVE REPORTS.

THIRTEENTH VOLUME.

INDIANA LEGISLATURE.

IN SENATE.

TUESDAY, December 3, 1872.

The Senate met at ten o'clock a.m.—President Friedley in the chair.

The session was opened by prayer by Rev. J. H. Bayliss, of Roberts Park M. E. Church.

The Secretary's journal of yesterday's proceedings was read and approved.

PETITIONS AND MEMORIALS.

The following described petitions and memorials were referred to appropriate committees.

By Mr. HUBBARD, a petition from citizens of St. Joseph county, praying for the repeal of the Drainage and Reclaimation of Wet Land Acts.

By Mr. DWIGGINS. From citizens of Starke and Jasper counties on the same subject.

By Mr. WINTERBOTHAM. On the same subject.

REPORTS FROM COMMITTEES.

Mr. BROWN, from the Judiciary Committee submitted a report, returning the joint resolution [H. R. —] agreeing to the amendment proposed by the last General Assembly concerning the debt chargeable upon the Wabash and Erie Canal, with a favorable recommendation thereon.

Mr. BROWN returned from the Judiciary Committee the bill [H. R. 27] concerning interest on judgments, with an amendment to the title by striking out the words "a bill," and inserting in lieu thereof the words "an act," and when so amended recommending its passage.

He also returned from the same committee the bill [H. R. 7] providing that Justices shall have original jurisdiction in certain cases of misdemeanors where the penalty does not exceed a fine of $25, with amendments clerical only.

Also, from the same committee, the bill [S. 71] to amend sections 7 and 49, of the settlement of decedents estates act of June 5, 1852, with a favorable report, and with amendments providing that letters of administration may be taken out within five days and a sale may take place upon twelve days notice.

Also, the bill [S. 72] to amend section 127 of the general practice act, with a favorable recommendation.

He also returned from the same committee the bill [S. 76] to define the crime of libel, with a similar report.

Also, the bill [S. 75] defining the law and fixing punishment for verbal slander, with a like recommendation.

He also returned the libel bill [S. 73], with a recommendation that it lay on the table.

These reports were severally concurred in.

PROPERTY RIGHTS OF MARRIED WOMEN.

He also returned a resolution from the same committee, concerning the rights of married women, recommending that it lie on the table. [The resolution was one of inquiry as to the expediency of passing a law extending to married women the same

rights as to holding property and making contracts that are enjoyed by unmarried women.]

Mr. HUBBARD said that in the course of his practice, his attention had often been called to the condition of our laws on this subject. Under the old English law, when a man married a woman he took her property and her debts, substantially. He was liable for all contracts made by her, necessary for persons in their condition in life. But we have changed all that. We give a married woman the right to hold any property that a man can hold, or she could hold when she was single, and we have not made her liable for general indebtedness. The consequence is, it is rendered possible for a woman to make contracts in her own name, and not be liable generally on a single one of those contracts. There is, as Senators are aware, but a small cla s of contracts on which a married woman can be held liable—where it is directly for the benefit of her separate property—her real estate. Then, with all the rights of property that a man has, she is not liable for any indebtedness whatever. That is the condition of the laws.

A large amount of real estate and personal property is in the hands of married women, whose husbands are conducting the business generally, and yet the former are not responsible for a cent of indebtedness. The property is put into the wife's hands when the husband is unembarrassed, and when misfortune comes it is found, too late by the creditors, that they are not responsible, that the wives have for years held every cent of their property. In some other States, Michigan and New York, for instance, a married woman is made responsfble for her contracts the same as when single. It is commonly supposed by citizens of this State that when a creditor holds a note signed by a married woman, she holding the property, the note is good. But this is not the case. The note is no better than blank paper. The law ought to be changed so that liability shall follow the possession of property.

Mr. BROWN said the committee examined the bill and the propositions contained in it, and he thought came to a very wise and correct conclusion. He had about all the trouble he wanted to live with his wife under the present law, and if the proposition of the Senator over the way [Mr. Hubbard] should be adopted, he didn't know that he would be able to live with her at all. [Laughter.] If the Senator is in favor of subordinating mankind to womankind he did not know that he should object, but as long as the Senator shook the pantaloons at him he must allow him to put them on and wear them. It seemed to him that more family difficulties occurred and more divorce suits were instituted because of the increasing change of the law by which women were invested with rights hitherto unknown to them. It brings about family quarrels and family trouble, and he, for one, was in favor of abridging rather than enlarging what are commonly known as the rights of married women.

The hardship of which the Senator speaks can be said in reference to any branch of the law. It is generally supposed that a man knows the law. If a man contracts with a married woman he is generally supposed to know what the law is in relation to that kind of contract. A woman can hold in her own right property that she acquires by devise or descent. But if she earns money by her own labor, that is her husband's. He is entitled to her wages and the proceeds of her wages. Therefore, he said, it was right that a woman should not be allowed to set up an independent business of her own, to carry it on by contracting, selling, trading and dickering, because the proceeds of all that kind of service which she may perform belong to her husband. He should have the supervision and control of it. If the law is changed as the Senator wants it changed, in his opinion it would bring about domestic discord and trouble.

Mr. HUBBARD said the object of the resolution was to protect the rights of the creditors of married women. Under the present law she has the same rights of holding property that a man has. The object of the bill is to prevent the creditors from being defrauded. So far as dissensions and discord in the family were concerned he thought the family relations were as harmonious now as they were a hundred years ago before the changes in the law respecting the rights of married women were made. According to the law of Indiana, if a married woman makes a contract with reference to her separate property, it must be for the benefit of that property, and if a court of equity thinks that she has made a foolish contract, it will set it aside. In one case in St. Joseph county a man sold a woman feed for her cow and could not collect the debt. It was to provide against such outrages as these that the resolution was introduced.

The vote on concurrence in the report of the committee resulted as follows:

YEAS—Messrs. Bird, Boone, Bowman, Brown, Cave, Collett, Dagey, Dittemore, Harney, Rosebrugh, Scott, Steele, Stroud, Williams, Winterbotham, Mr. President—16.

NAYS—Messrs. Armstrong, Beardsley, Beeson, Bunyan, Daugherty, Dwiggins, Francisco, Freidley, of Scott; Gregg, Hall, Haworth, Howard, Hubbard, Miller, Neff, Oliver, Orr, Rhodes, Sarnighausen, Slater, Sleeth, Smith, Taylor, Thompson, Wadge—25.

Pending the roll call—

Mr. BOONE, in explanation of his vote, said he regarded it as much the duty of men to inquire into and understand the law relating to the rights of married women as the law regulating contracts with minors. he should therefore vote "aye."

Mr. SCOTT, in explaining his affirmative vote, thought the Senate was in somewhat the condition that Moses found himself in at one time; if they were not on holy ground it was at least dangerous. He was in favor of the spirit of the resolution, but did not quite like its form. He referred to another bill covering nearly all the points he desired, and for that reason should vote "aye;" otherwise he should vote "no."

The vote was then announced as above recorded.

So the report was not concurred in.

Mr. BROWN moved to amend the resolution by adding, "and to exercise the elective franchise."

Mr. NEFF moved to lay the amendment on the the table.

The motion was agreed to by yeas, 27; nays, 14; as follows:

YEAS—Messrs. Armstrong, Beeson, Bowman, Bunyan, Cave, Daggy, Daugherty, Francisco, Gregg, Hall, Harney, Haworth, Howard, Hubbard, Miller, Neff, Oliver, Orr, Sarnighausen, Slater, Sleeth, Smith, Stroud, Thompson, Wadge, Williams, Mr. President—27.

NAYS—Messrs. Beardsley, Bird, Boone, Brown, Collett, Dittemore, Dwiggins, Freidley of Scott; Steele, Taylor, Winterbotham—14.

Pending the roll-call, Mr. HUBBARD, in explanation of his vote, thought that the subject of the resolution was too serious a matter to be trifled with, and inasmuch as the Senate did not seem disposed to treat the matter with the seriousness it deserved, he shodld vote to lay the amendment on the table.

Mr. SCOTT, when his name was called, said he should vote for the amendment in all seriousness. It is a matter that will be pressed here, and will not be considered a trifling matter. The constitution may need to be amended, but the resolution did not preclude the inquiry by the committee to ascertain—and it is very pertinent to ascertain—whether the constitution should not be amended so as to allow females to vote. Certainly any proposition which involves the rights of one-half of the citizens of this State, ought not to be considered a trifling matter.

Mr. SLATER, when his name was called, said: Mr. President—No man possesses a deeper veneration for woman than I possess for her moral, physical and intellectual nature. But her intellectual nature is different from that of man. In all Christendom she has nowhere, with the exception of Wyoming, been admitted to the rights, power and franchise that man arrogates to men alone. She plans no sublime campaigns—nor leads armies to battle or fleets to victory. The honors of the political arena are not for her to wear or wield, but she may well glory in the hero who is both able to wear and wield them. Her voice is not for brawling. Its tender tones are for soothings and caressings. The political rostrum is too boisterous and rude for her refined nature. Home is her place of worship, except when, like the star of day, she deigns to issue forth to the world to exhibit her beauty and graces, and scatter her smiles upon all who are worthy to receive so rich a boon, and then she goes back to her home, like as the sun sinks in the west, and the memory of her presence is like the soft twilight that lingers long behind a bright departed day. I therefore vote "aye."

The vote was then announced as above recorded.

On motion of Mr. THOMPSON, the resolution was recommitted to the Committee on the Judiciary.

DRAINAGE LAWS.

Mr. HUBBARD, from the Committee on Corporations, returned the bill [S. 1] to repeal the Drainage law and supplementary act.

Mr. BROWN moved to lay this bill on the table and make it with all bills on this subject, the special order for Tuesday next at two o'clock.

Mr. DITTEMORE thought the passage of this motion due to the Senator from Kosciusko (Mr. Chapman) who is absent, and who has a bill on the files proposing to amend these acts.

Mr. STEELE also favored the motion.

Mr. HUBBARD thought it would cause delay. The bill is simply a repealing act, and as it is the intention of all to pass some kind of drainage laws this bill might as well be passed now. But such has been the feeling raised by the actions of the Kankakee Drainage Company that the people in that section are impatient of delay. There was urgent necessity for immediate action on the bill.

Mr. DWIGGINS said the Kankakee Draining Company had assessed lands along the river to the amount of four millions eight hundred odd thousand dollars. They have also filed the bond required by

the supplemental act. That authorized them to put there bonds on the market and sell them. As soon as those bonds, or any portion of them, are sold, these assessments are a lien on the entire lands assessed for the payment of these bonds, which operates as a mortgage on the lands. In order that the people owning these lands may be relieved from this enormous mortgage, which will run for fifteen years, for none of the bonds are for a less period than that, they have appealed to the courts. They can defeat the present assessments, as they believe. But he desired to say to the Senate that these lands constituted the sole property of many of these people. They have to pay their lawyers' fees and the costs of court, because not a dollar of costs can be made out of this company and it will cost the owners of these lands half of their farms to pay their attorneys' fees and the expenses of this one appeal, What they fear is this, that the company may call its assessors together at any time and make a reassessment upon these lands. Then what? The only remedy is to again go into court and by the time they get through the court the second time their homes will be gone, swallowed up in expenses of litigatfon. This is the reason, he said, why the friends of this measure are to-day insisting on the repeal of the act. It may be said that the Kankakee Company has vested rights. That must be settled in the courts. All we ask of the Legislature is to relieve our constituents as far as they can from the imposition that has been practiced by the company—for imposition it is.

Mr. BROWN should oppose the repeal of the present drainage laws until assured some fair bill upon the subject would be passed.

The motion that this bill and similar bills be made the special order for Tuesday next at two o'clock, p. m., was then agreed to.

On motion of Mr. BROWN, Mr. Chapman's bill [S. 88] to authorize the structure of levees, dykes, drains and ditches, took the same course.

SOLDIERS' ORPHAN HOME.

Mr. BEARDSLEY, from the Committee on Benevolent Institutions, returned the bill [S. 48] to amend sections 1 and 8 of the Soldiers' Home act of March 11, 1867, and section 2 of the act of May 14, 1869, supplemental thereto, with an amendment that any county on whose application orphans were received be liable for their maintenance, recommending its passage.

The report was concurred in.

THE NEW STATE HOUSE.

Mr. THOMPSON presented a proposition for the sale of private grounds for the extension of Capital square, which was referred to the Committee on Public Buildings.

Mr. HOWARD, from the Committee on Rights and Privileges of the inhabitants of the State, returned the bill [S. 79] for an amendment to the first section of the mill race way act of March 1, 1853, to allow any person owning a flouring mill, or other machinery run by water, to construct a race way through the property of another person, with a recommendation that it lie on the table.

The report was concurred in.

He also returned from the same Committee the bill [S. 80] to amend the fish law, with amendments and a favorable report thereon.

Mr. BEARDSLEY explained that the bill contemplated the exemption of the St. Joseph river from the provisions of the fish law.

Mr. DITTEMORE moved to recommit the bill with instructions to exempt White river also from the provisions of the bill.

Mr. BROWN asked if Salt river was included in the motion. As the Senator (Mr. Dittemore) had occasion to navigate that stream occasionally, it might be well for him to include it. [Laughter.]

On motion by Mr. BEARDSLEY this motion to recommit was laid on the table, by yeas, 24; nays, 17.

Mr. COLLETT moved to recommit the bill with instructions to exempt the Wabash river.

On motion by Mr. TAYLOR this motion to recommit was also laid on the table, by yeas, 23; nays, 18.

Mr. WILLIAMS moved to recommit the bill with instructions to report a bill to repeal the fish law.

Pending which the Senate took a recess till two o'clock P. M.

AFTERNOON SESSION.

The PRESIDENT took the chair at 2 o'clock and stated the consideration of the order of business pending at the time of taking the recess for dinner.

Mr. DITTEMORE saying it being evident that a quorum was not present, demanded a call of the Senate, but withheld the demand for a report from a committee.

Mr. COLLETT, by consent, from the Committee on Agriculture, returned the bill [S. 39] to amend the drainage and wet

land laws, with amendments, and when so amended recommending its passage.

Mr. O'BRIEN moved that the report be concurred in and the bill lie on the table, and 150 copies be printed for the use of the Senate.

The motion was agreed to.

CALUMET FEEDER DAM.

Mr. WADGE moved for a suspension of the order of business, that a communication from the Governor may be read.

The motion was agreed to.

Accordingly a communication from the Governor, in response to a resolution of the Senate concerning the feeder dam across the Calumet river, at Blue Island, in the State of Illinois, was read, embracing letters from the Governor of Illinois, with various other reports and correspondence for the removal of said dam at Blue Island. The Governor says that in view of the fact that the purpose for which the dam was erected having ceased to exist in consequence of the feeding of the Illinois and Michigan Canal from Lake Michigan through the Chicago river instead of from the Calumet, he felt it to be his duty to use the best efforts to induce the Illinois authorities to remove the structure. On the 24th of February, 1872, he appointed Hon. A. L. Osborne and Hon. W. H. Calkins, Commissioners, on behalf of Indiana, to proceed to Springfield and confer with the Governor and General Assembly in relation to the removal of the dam. Mr. Calkins succeeded in procuring a favorable action in the matter of the Governor and General Assembly of Illinois, which was printed at the time Mr. C. made his report to the Governor.

Since the receipt of a letter from Governor Palmer, reciting this action by his General Assembly, Governor Baker has had no further official information on the subject, but is otherwise informed that the same has been lowered but not removed, and that an injunction still exists which prevents the trustees from removing the dam. It ought to be removed, as it still causes the overflow of thousands of acres of land, to the great injury of the property and health of many of the good people of Lake and Porter counties.

The Governor subsequently learned that a court in Cook county had issued the injunction restraining the Trustees of the Illinois and Michigan canal from removing the dam. Upon this, he again had a correspondence with Governor Palmer, which is transmitted to the Senate with the message. Governor Baker recommends that the Attorney General, or some other competent agent, be designated by the General Assembly and directed to proceed to Chicago and learn the grounds upon which the injunction is based, so that the General Assembly of the State may have the information on which to base an appeal to the General Assembly of the State of Illinois, when it meets in January, for full and speedy relief by the removal of the dam. It cannot be doubted that such relief will be afforded when such an appeal is made.

Accompanying this is a copy of the account of Messrs. Calkins and Osborne for their services in the premises, amounting to $500, which the Governor recommends should be paid.

On the call of Mr. DITTEMORE, the exhibits accompanying the message were read.

On motion by Mr. WADGE, the message and accompanying communications were referred to a select committee of three, to be composed of Senators from the northwestern portion of the State, and the following Senators were subsequently appointed as the committee, viz: Messrs. Wadge, Winterbotham and Hubbard.

THE FISH LAW.

The PRESIDENT *pro tem.* (Mr. Rhodes) now recurred to the order of business pending at the time of the recess for dinner, being a motion by Mr. Williams to recommit the bill [S. 80] to the Committee on Rights and Privileges, with instructions for the committee to report a bill repealing the fish law.

Mr. CAVE did not object to the motion, but thought he had a bill on the files of the Senate for the repeal of the fish law that was likely to meet the wishes of Senators favoring a repeal of this law.

Mr. DWIGGINS hoped to see the law amended so as to allow the taking of fish in every way except by netting and seining.

Mr. GREGG said the greatest evil in his part of the State is with those who use nets that are set across the mouth of streams. By turning the net one way when fish go up the stream, the net catches wagon loads of them, and when the fish return to the large stream the nets are set the other way. He favored a fish law that would afford a remedy in that particular.

Mr. DITTEMORE opposed the present law because it smacks largely of class legislation, as it gives to gentlemen of leisure the privilege of doing most all the fishing that is done. His constituents insist that the law shall be repealed, and he should so vote in obedience to their wishes.

Mr. THOMPSON thought that no law on the statute book was more popular with

his constituency than this fish law, as the fish market had been vastly improved by it in this vicinity.

Mr. DWIGGINS, as a substitute for the motion of Mr. Williams, moved to recommit with instructions to report a bill to permit fishing in every manner except by seining.

Mr. WILLIAMS accepted the substitute in lieu of his motion.

Mr. GREGG again insisted that the use of a set net should be prohibited, and he moved to amend the amendment by adding a prohibition against the use of set nets and traps.

Mr. HUBBARD moved that the report and pending amendments lie on the table.

Mr. BROWN demanded a division of the question.

The amendment (Mr. Gregg's) was laid on the table by yeas, 23 nays 19.

The question recurring on laying on the table, the substitute (Mr. Dwiggin's) being a motion to recommit the bill to the Committee on Rights and Privileges with instructions to report a bill permitting fishing in every manner except by seining. the Senate laid that on the table also by yeas 23, nays 20.

The question then recurring on the motion to lay the report of the Committee on the table, it was agreed to by yeas 35, nays 6.

Mr. ROSEBRUGH moved to reconsider the vote just taken and to lay this motion on the table.

The latter motion was agreed to.

The order for calling for further reports from committees was taken up.

TIPPECANOE BATTLE GROUND.

Mr. TAYLOR, from the select committee thereon, returned the bill [S. 45] for a permanent fence around the Tippecanoe Battle Ground, with a report narrating a history of the ground since the battle was fought, reciting a clause of the constitutfon requiring the General Assembly to provide for its permanent inclosure, and recommending the appropriation of $25,000 for that purpose, as follows:

MR. PRESIDENT: The committee to whom referred that portion of the message of his Excellency Governor Baker, in relation to the enclosure of the Tippecanoe Battle Ground, and also Senate Bill No. 45, which provides for the erection of a permanent fence around said ground, in accordance with the recommendations of the Governor, beg leave to submit the following report: Your committee find that the ground on which the battle of Tippecanoe was fought was originally purchased by General John Tipton for the purpose and design of its permanent preservation and protection. In the year 1831 a member of the then survivors of the battle of Tippecanoe, with many other distinguished citizens of Indiana and Kentucky, assembled on the battle field, and having collected the scattered remains of those who fell in that conflict, deposited them, with appropriate funeral rites, in a common grave, around which a rude fence was made including only the few feet of ground where the remains were deposited. This enclosure has long since disappeared and nothing now remains to mark the spot where lie the bones of the heroic dead who perished in that memorable battle. In 1833 the General Assembly, by joint resolution, directed the Governor to ascertain from General Tipton the terms upon which a title could be obtained for the State in the ground on which the battle was fought; and thereafter such action was had by the General Assembly, on behalf of the State and General Tipton, that on the 7th day of November, 1836, the battle ground was conveyed to the State in fee simple.

In the correspondence between Gov. Noble and Gen. Tipton respecting the conveyance it was well understoood, and so expressed in the joint resolution on the subject, that the purpose for which the title was vested in the State was the same as that originally entertained by General Tipton, viz: Its preservation and protection. Since the title was thus acquired by the State the ground has been twice enclosed by temporary fencing, not a vestage of which now remains. The framers of our present Constitution were so impressed with the obligation resting upon the State to protect for all time from rude disturbance this sacred ground, that they by constitutional enactment recognized the duty in that regard. Section ten, article fifteen, of the Constitution reads as follows: "It shall be the duty of the General Assembly to provide for the permanent enclosure and preservation of the Tippecanoe Battle Ground." This Constitutional requirement has never been complied with in spirit or letter only to the extent as before stated, in the erection of temporary fences. The Board of Commissioners of Tippecanoe county have recently caused to be made a survey of that portion of the grounds which needed to be enclosed. Mr. E. M. Talbott, under whose supervision this survey was made, was also charged with the additional duty of making an estimate of the probable cost of a suitable iron fence. The report made by Mr. E. M. Talbott to the Board of

Commissioners containing a plat of the survey and an estimate of cost is herewith submitted and made a part of this report. From an examination of the plat and report it will be seen that the part to be enclosed will require 3,300 feet of fence at an estimated cost of $24,100. Your committee would, therefore, recommend that the blank in section one be filled with the sum of $25,000. And when so amended would recommend the passage of the bill.

HENRY TAYLOR,
W. P. RHODES, } Com.
J. F. HARNEY,

The report was concurred in.

MEMORY OF HORACE GREELEY.

On motion of Mr. GREGG the regular order of business was suspended and the resolution introduced by him yesterday in relation to the death of the Hon. Horace Greeley was taken up.

Mr. GREGG said he believed the resolution expressed the unanimous sentiment of the Senate on this subject. No words are adequate to express our deep sorrow and regret at hearing of the death of one of the greatest educators of our people. No other man's death would create such a sense of profound sorrow and regret through our country and the civilized world at this time as does that of Horace Greeley—a man distinguished in everything that is noble and good, one who leaves behind him a name that will be honored for all time to come. He was in the broadest sense of the word an American citizen, a self-made man, superlatively a successful journalist, a learned statesman and philosopher, a philanthropist, a friend and an advocate of the down-trodden and oppressed, without distinction of race or color.

The PRESIDENT of the Senate [Mr. Rhodes in the chair] said that for more than a quarter of a century the name of Horace Greeley has been prominent before the American people, and in all the events that have transpired in that time, the most interesting portion of our country's history, he has borne an honorable and conspicuous part. Through the columns of his great journal, circulating in all parts of the country, numbering its readers by tens of thousands, he has, perhaps, done more to mold and shape public sentiment in the United States than any man of his time. Possessed as he was of a noble and generous nature, always actuated by a broad and genuine philanthrophy, he has throughout all his public career, both by tongue and pen, plead eloquently the cause of the poor, the oppressed and the down-trodden. From the commencement of the agitation of the slavery question in this country, there has been no truer, no bolder and no abler friend of the slave than has been Horace Greeley. With him the cause of human freedom was paramount and above mere party considerations. He was a stranger to the ignorant and unholy prejudice of caste, which has so long degraded a race in our midst; and if to-day that wicked prejudice is rapidly disappearing from among our people, and if to-day the lash has fallen from the hands of the slave-driver forever; if to-day no fetters are on the limbs of bond men in all this land; if to-day our flag floats over no slave in our broad domain, we ought to remember that Horace Greeley has contributed his full share to the accomplishment of this grand triumph. And when the history of this anti-slavery struggle is written the name of Greeley will stand side by side with the names of those that adorn the brightest pages of American history.

Mr. HUBBARD moved to amend the resolution by striking out all after the word "resolved" and inserting the following: "That as a mark of respect to him these resolutions be spread upon the journals of the Senate." He said that he would allow no man to go before him in cherishing recollections of the memory and services of Horace Greeley, but we are here engaged in a work for the people of the State, and he did not think that our respect for the illustrious dead requires that we shall waste any more time than is necessary. Senators are aware that there is much work for us to do, and we ought not, when there is no occasion for it, to waste a day at this time of the session.

Mr. BROWN. I trust that the Senate will not be insensible to the importance of the occasion. The death of a just man always strikes the community, and indeed the death of Mr. Greeley has struck it, I think, as forcibly as the death of any man during the last half century. And I think the great works of the deceased have been of sufficient importance and benefit to the people that this mark of respect proposed by the resolution offered by the Senator from Dearborn, is but a poor pittance and a poor reward for the great good he has done the people of the country. I hope that the Senate will change the resolution that has just been offered by the Senator from St. Joseph [Mr. Hubbard] so that it will not read that it proposes to strike out the resolution offered by the Senator from Dearborn, [Mr. Gregg] but that it will be a resolution to accompany that of the Senator from Dearborn, so

that the Senate will adjourn on to-morrow, the day upon which his body is to be given to the earth, and that the record of this occasion may be made up along with the other records of this body.

I have no eulogy to pronounce upon him. His fame, his name his reputation need none. They speak for themselves. He sprang from the lowly and humble walks of life. By energy, by industry, by perseverance, by honesty and diligence he carved out for himself a name and fame that any American citizen may well feel proud of. When a man makes for himself a name of being a universal friend and benefactor of the human race, he makes for himself a fame and a name that any man might well be proud of. And after the heat of party zeal and party victory has passed away, and when reason and soberness shall perform their sacred office, all the people in this country who have intelligence to reason and hearts to do right will see that Horace Greeley had identified himself with those occasions that were for the best interests of the country and the happiness of the people. He is gone! But "it is not all of life to live, nor all of death to die." I trust that that body of his which lies beyond the grave is as bright and glorious as that which awaits the coming of any man who has done honor to himself, credit to his people and justice to his Maker.

Mr. DITTEMORE moved to make the resolution offered by the Senator from St. Joseph (Mr. Hubbard) a part of the resolution offered by the Senator from Dearborn (Mr. Gregg).

Mr. HUBBARD, as it seemed to be the sense of the Senate, consented to this.

The motion was agreed to, and the resolution as amended was adopted.

UNITED STATES POSTOFFICE.

On motion of Mr. THOMPSON, the order of business was suspended, and his bill [S. 65], ceding to the United States jurisdiction over certain property in Indianapolis, upon which to erect public buildings, was read the third time, and passed the Senate, by yeas 40, nays 0.

FEES AND SALARIES.

Mr. FRIEDLEY of Lawrence [Mr. Rhodes in the chair), by unanimous consent, introduced a bill [S. 112], "A bill to amend sections 9, 16, 17, 18, 19, 28, 29, 30, 32, 58, 49 and 52, and repealing sections 20, 24, 25, 27, 35, 36, 37, 38 and 53 of an act entitled 'An act regulating the fees, salaries and duties of certain officers therein named and prescribing penalties for the violation of its provisions, repealing all laws in conflict therewith, and declaring an emergency.'"

On motion of Mr. WILLIAMS, the constitutional restriction was dispensed with, by yeas 39, neas 0, and the bill was read by title only (for the first reading).

[It allows jurors in the Supreme Court $2 50 per day; to jurors before justices of the peace, each $1 per day; and to grand or petit jurors in all other courts, each $2 per day, and to all jurors mileage at the rate of five cents per mile. It also fixes the fees of clerks of the courts and county auditors. It limits the pay of the county auditor to $1,800 per annum, except that he shall be allowed $35 for pay of deputies for each one hundred male inhabitants of his county over the age of twenty-one years, and fees and commissions arising out of the management of the school fund. The compensation of the county treasurer shall be limited to $1,500 per annum, except that he shall be allowed $25 for each one hundred male inhabitants of the county over twenty-one years of age, and also the fees and commissions now allowed by law for the collection of delinquent taxes. County commissioners are allowed five dollars per day for each day's attendance as a member of the county board or the board of equalization.]

Subsequently on the motion of Mr. FRIEDLEY, of Lawrence, the constitutional rule was dispensed with by yeas 39, nays 0, and the bill again read by title (for the second reading) and referred to the Committee on Fees and Salaries.

THE CANAL BONDS.

On motion of Mr. STEELE, the bill [S. 85,] to provide for the payment of the internal improvement bonds, which have not been surrendered under the Butler law, was taken up and referred to the Committee on Finance.

CONSTITUTIONAL CONVENTION.

Mr. STEELE, by consent, introduced a bill [S. 113] for an act to provide for calling a Convention to revise, alter or amended, the Constitution of the State of Indiana, to meet at the State House on the third Tuesday of November, 1873, to consist of one hundred members, who shall be chosen from the districts now entitled to elect members of the House of Representatives and General Assembly.

It was read the first time and passed to the second reading.

NEW PROPOSITIONS.

Mr. NEFF, by consent, introduced a bill

[S. 114] for an act to suppress tippling houses and drunkenness, to regulate the selling or giving away of vinous, malt and intoxicating liquors, etc., and the collection of damages sustained from the use of liquors, and declaring an emergency.

On his motion the constitutional rule was dispensed with by yeas 37, nays 2, and the bill was read by title only (for the second reading.) He made an ineffectual motion to lay it on the table and print 200 copies.

It was referred to the Committee on Printing.

Mr. BROWN, by consent, introduced a bill [S. 115] to prevent extortionate charges for and unjust discriminations in the transportation of freights by railroads and other common carriers.

It was read the first time and passed to the second reading.

Mr. DWIGGINS, by leave, introduced a bill [S. 116] to amend sections 95, 96 and 97 of the act of June 17, 1852, providing for the settlement of decedents' estates, and legalizing certain sales of real estate heretofore made by foreign administrators.

It was read the first time and passed to the second reading.

Mr. ORR introduced a bill [S. 117] regulating the granting of divorces, nullification of marriages and decrees of courts in relation thereto, and repealing all conflicting laws. [It provides that the applicant must have been a *bona fide* resident of the State for three years, and fixes the following as the causes for which divorces may be granted: Adultery, willful abandonment for two years, cruel and barbarous treatment of either party by the other, habitual drunkenness of either party, or the failure of the husband to make reasonable provision for his family.]

It was read the first time and passed to the second reading.

RE-LOCATION OF COUNTY SEATS.

On motion of Mr. BEESON, the bill [H. R. 81] amending the re-location of county seat law, was read by title and referred to the Committee on the Judiciary.

BANKS AND BANKING.

On motion of Mr. Daugherty, the bill [S. 2] to regulate banks of deposit and discount in the State of Indiana, was taken up. The constitutional restriction was dispensed with by yeas 38, nays 0, and the bill was read by title only for the second reading, and was ordered engrossed for its third reading.

SPECIAL COMMITTEES.

The PRESIDENT announced the committee to whom was referred that portion of the Governor's message relating to the death of Colonel Norman Eddy, late Secretary of State, viz: Messrs. Scott, Glessner, Daggy, Daugherty, and Friedley of Scott.

He also announced a committee of one from each Congressional district, to which was referred the subject of erecting a soldiers' monument in the Governor's Circle, to-wit: Messrs. Steele, Gooding, Hall, Gregg, Scott, Oliver, Dittemore, Taylor, O'Brien, Chapman and Wadge.

He also announced the committee to whom was referred the subject of the feeder dam on the Calumet River at Blue Island, to-wit: Messrs. Wadge, Winterbotham and Hubbard.

Mr. THOMPSON, from the Committee on Benevolent Institutions, reported that the bill [S. 180] to amend the act to revise, simplify and abridge the rules of practice, etc., had been referred to that committee by mistake and moved that it be referred to the Committee on the Judiciary.

It was so ordered.

And then the Senate adjourned, under the resolution adopted this afternoon, till Thursday morning at ten o'clock.

THE

BREVIER LEGISLATIVE REPORTS.

THIRTEENTH VOLUME.

INDIANA LEGISLATURE.

HOUSE OF REPRESENTATIVES.

TUESDAY, December 3, 1872.

The House met at nine o'clock a. m.

Prayers by the Rev. Chas. H. Raymond.

Mr. SATTERWHITE moved to dispense with reading the journal of yesterday, but, Mr. BUTTERWORTH objecting, it was read and approved.

MEMORY OF MR. GREELEY.

Mr. HARDESTY. Mr. Speaker: As every member of the House has heard with regret of the death of the Honorable Horace Greeley, and as Mr. Greeley at the late Presidential election received nearly three millions of the votes of the American people, and as his name has been so honorably connected with the history of the country, I ask leave to offer the following:

WHEREAS, It is with deep regret that the House of Representatives of the General Assembly of the State of Indiana has heard of the death of Horace Greeley, the journalist, philosopher, and philanthropist; therefore,

RESOLVED, That in his death the nation has lost one of its foremost men, journalism its chieftain, philanthropy a devotee, science a practical worker, and the millions of toiling people of America a fast friend.

RESOLVED, That as a mark of appreciation of the genius of the man when living, and respect to his memory now that he has gone to his rest, this preamble and resolutions be spread upon the journals of the House.

On motion of Mr. RUMSEY, the matter was referred to a special committee, viz.: Messrs. Rumsey, Hardesty, Cauthorn, Buskirk, and Richardson.

A message from the Governor by the hand of John M. Commons, his Private Secretary, was now received, transmitting the annual report of the Trustees and Superintendent of the Institution for the Education of the Deaf and Dumb.

THE CANAL BOND QUESTION.

Also, a message from the Governor in relation to the unsurrendered Internal Improvement Bonds. It is as follows: [See Appendix, p. 21.]

REPORTS FROM COMMITTEES—DRAINAGE.

Mr. BUTTERWORTH, from the Committee on Swamp Lands, returned Mr. Martin's bill [H. R. 76] to amend the act of March 11, 1867, to enable the owners of wet lands to drain and reclaim them where the same can be done without affecting the rights of others, with amendments. In section 6 for "Common Pleas" insert "Circuit or Common Pleas Court." Add the following: "Sec. 8. When the assessors have presented the benefits or damages to any tract of land and have made an error therein, such error may be amended on trial in court, the said error being alleged in the complaint and proved on the trial;" and so amended the committee recommend the passage of the bill.

The amendments were adopted.

Mr. BUTTERWORTH. This bill was most heartily endorsed by every member of the Swamp Lands Committee. It is an amendment to the act of 1867—not the Kankakee swindle. It is what is called "the one man Drainage Law." The amendments are important. They were introduced by bill into the Legislature two years

ago, but failed on account of the breaking up. They afford legal facilities for improvements four or five miles long.

Mr. HELLER. It is difficult to grasp all the provisions of so long a bill, and I move that 200 copies be printed.

Mr. JOHNSON. The Committee on the Judiciary have now under consideration the bill of the gentleman from St. Joseph [Mr. Butterworth] to repeal the Kankakee Drainage Law; and as this bill will in some measure be a substitute for that law, it strikes me that it should go to the committee where the other is. The Judiciary Committee may offer amendments to it, and therefore they should have it before it is printed. The Committee would like to examine them together.

Mr. BUSKIRK opposed printing. The amendments are very brief, and the law of 1867 we can read for ourselves. Whilst it might be well enough to print the amendments, I see no necessity for printing the bill at large. I think, also, that the bill should go to the Judiciary Committee. In the statute of 1852, concerning drains, it is provided that the question of public utility in any proposed work shall be triable by jury, and I believe that this provision is not in either of the statutes of 1867 or 1869. Now I think that a provision of this kind ought to be incorporated into this act.

Mr. GREGORY. The gentlemen from Marion (Mr. Johnson) is mistaken. This bill is in no sense a substitute for the Kankakee drainage law. That provides for drainage by corporations; this does not. It is the one-man drainage law. It answers a different purpose—goes to a different object.

Mr. BUSKIRK. It proposes to take another man's land. It touches the doctrine of eminent domain, and therefore I think it ought to go to the Judiciary Committee.

The bill was laid on the table and ordered to be printed—affirmative 39, negative 30.

COAL MINES REGULATIONS.

Mr. GIFFORD, from the select committee thereon, returned his bill [H. R. 83] to provide for the health and safety of persons employed in the coal mines, with amendments, recommending passage.

The bill and amendments were referred to the Committee on the Judiciary.

Mr. WILSON, from the Committee on Insurance, returned Mr. Kimball's bill [H. R. 36] to amend the charter of the Franklin Insurance Company, with an amendment striking out the third section, changing name and increasing the capital stock.

The amendment was adopted and so the bill was ordered to be engrossed.

OLD STATE BONDS—LIABILITY.

Mr. GREGORY submitted the following:

RESOLVED, That the Attorney General be requested to submit to the House his written opinion upon the following propositions, to wit:

FIRST. What additional liability either moral, legal or equitable, if any, would the State incur as to the outstanding Internal Improvement bonds by paying the judgment of John W. Garrett, recently recovered in the Cass Circuit Court, against the Trustees of the Wabash and Erie Canal?

SECOND. In what position as to the payment of the bonds included in the Butler bills would this State be placed if she permitted the Wabash and Erie canal and other internal improvements upon the Garrett judgment as a lien to be sold to satisfy the judgment of John W. Garrett recently recovered in the Cass Circuit Court against the Trustees of the Wabash and Erie canal?

Mr. KIMBALL. It is unnecessary to call for that information, the Governor having already been called on for his opinion in the same matter by the gentleman from Knox. He made an ineffectual motion to lay the resolution on the table.

Mr. GREGORY. I understand that the resolution of the gentleman from Knox (Mr. Cauthorn) relates only to the history of legislation on this question. The information sought in this resolution, is intended to place the House in a better position to act upon the bill introduced by the gentleman from Marion county (Mr. Kimball) to pay the Garrett judgment.

Mr. WOOLLEN, for that very reason, was opposed to the resolution. The gentleman from White (Mr. Gregory) is a lawyer, and I think it unnecessary to ask the Attorney General to give his opinion in a matter that we ought to examine for ourselves—rather let gentlemen go into the facts and the law and make up their own opinion. Besides, we have already the opinion of the Governor, and of such lawyers as Hendricks, Hord and Hendricks. But let us not seek for other men's opinions and undertake to hold them responsible for our acts; but let us act on our own intelligence.

Mr. KIMBALL saw no necessity for calling for further information in this matter from the Attorney General or anybody else. This question has been discussed for the last twenty years. On every platform in the State it has had the maturest consideration, and the House should not waste time on it. There is a bill before the House to pay that Garrett judgment, and delays are dangerous: for if the time (Dec. 27th) passes by without paying it, then will come the process for

the sale of the canal property. Gentlemen should act on their own judgment in this matter. I understand Democrats and Republicans here are prepared and ready to vote for this bill, and against every proposition that may be brought against it.

Mr. RICHARDSON. I am prepared for this question, though I was not when I first took my seat here. I am ready to go upon the record; and therefore opposed to the delay that this resolution contemplates.

Mr. GREGORY proposed to vote intelligently and to be thoroughly advised in this matter. The reason I introduced this matter is, that, when I talk with the politicians about these questions, I find that they disagree, predicating their opinions on different statements of facts. I do not propose to act upon the Attorney General's opinion, but I seek for advice upon a question of much gravity and importance. As to the bill pending in the House [Mr. Kimball's] there is question as to its propriety, because there are still some of these old bonds outstanding, and their number and amount is unknown. There are loopholes in the bill—occasions for quibble.—There is yet something hidden in this matter which we have a right to know.

Mr. KIMBALL. There was no loophole in the bill wherein a quibble could come anyway. It is to provide for that portion of the 191 bonds which are a lien on the canal. It should go to the Committee on Ways and Means be returned early to the House.

Mr. SHIRLEY said the question had left the domain of politics, and was now only a legal one. He doubted if any lawyer in the House could say he saw his way clearly through it. He favored the resolution because he wanted all the information he could get.

Mr. HELLER could not understand why any gentleman should try to suppress investigation. He was not clear as to his duty in the case. If compelled to vote without further light he would feel impelled to vote against the payment of any bonds.

Mr. BUSKIRK, though a lawyer, was not prepared to vote upon the pending bill. The gentleman from Marion, as a partisan, might be prepared to do so, but he was not prepared to treat it in that way. He favored the resolution.

Mr. JOHNSON. Gentlemen have not been careful observers of events. The Governor has been at much pains in two of his messages to discuss this question in its legal aspects, and he has submitted the question to that distinguished legal firm, Hendricks, Hord & Hendricks, and they have given their opinion corroborating that of the Governor, that the State is liable for these outstanding bonds; and that unless they are paid they will become a lien upon the canal and compel its sequestration; and thereby the State will become liable, responsible for the payment of the surrendered bonds, amounting to many millions. Referring to the Cass Circuit Court judgment for Garrett, he thought that when a court had rendered judgment upon ca-e, the opinion of a lawyer would not be worth anything.

Mr. CAUTHORN raised the point of order that the discussion was taking a range not warranted by the resolution.

The point was sustained.

The question being upon the adoption of the resolution, the yeas and nays were ordered, resulting—yeas 47, nays 33, as follows:

YEAS—Messrs. Baker, Blocher, Branham, Buskirk, Butts, Cauthorn, Claypool, Cline, Coffman, Durham, Eaton, Edwards, of Lawrence; Ellsworth, Given, Goble, Goudie, Gregory, Hatch, Heller, Henderson, Hedrick, Hoyer, Isenhower, Jones, Martin, Miller, McConnell, Offutt, Peed, Pfrimmer, Rudder, Reno, Riggs, Satterwhite, Schmuck, Shirley, Smith, Strange, Teeter, Tulley, Walker, Willard, Wesner, Wynn and Mr. Speaker—47.

NAYS—Messrs. Anderson, Barker, Baxter, Butterworth, Broadus, Clark, Cobb, Cole, Cogwill, Crumpacker, Furnas, Gifford, Gronendyke, Hollingsworth, Johnson, Kimball, King, Kirkpatrick, Lenfesty, Mellett, North, Odle, Ogden, Reeves, Richardson, Ramsey, Scott, Spellman, Tingley, Wilson of Jay, Wolflin, Woollen, Wood and Woodard—33.

So the resolution was adopted.

The Speaker now took up the call of the House by counties and districts for—

NEW PROPOSITIONS.

Mr. WESNER, a bill [H. R. 156] to amend sections 4, 9, 10, 11, and 12 of the Liquor License Act.

It was referred to the Committee on Rights and Privileges.

Mr. RICHARDSON, a bill [H. R. 157] to authorize the refunding of taxes collected in several counties for the years 1869-70. [On account of increase of assessments.]

It was referred to the Judiciary Committee.

By Mr. OFFUTT, a bill [H. R. 158] declaring all railroad companies common carriers, regulating passenger fare and the tariff of freight, requiring them to receive and discharge freight and passengers at all their stations, and prescribing penalties.

It was referred to the Judiciary Committee.

The message of the Governor transmitting information, this morning, in answer

to the resolution of inquiry touching the question of the unsurrendered internal improvement bonds, was taken up, and, on motion of Mr. Branham, one thousand copies were ordered to be printed.

ORDERS OF THE DAY.

On motion of Mr. BRANHAM, the House took up the orders of the day. The Speaker laid before the House the message of the Governor transmitting the Annual Report of the Trustees and Superintendent of the Institution for the Deaf and Dumb, recommending the adoption of a concurrent resolution for printing 5,000 copies.

Mr. KING. Provision for the printing is already made by law.

The SPEAKER laid before the House a communication from the Governor transmitting the report of the Treasurer of State for the fiscal year ending October 31, 1872.

It was ordered to be printed.

The Common Pleas Court bill [S. 8] was read the first time.

On motion of Mr. MILLER, Mr. Kimball's bill [H. R. 129] to protect the Wabash and Erie Canal, and the tolls and revenues thereof, from sale or sequestration for the satisfaction of unsurrendered bonds, was taken up and referred to the Committee on Ways and Means.

HOUSE OF REFUGE.

Mr. Baxter's bill [H. R. 92] to amend the act of March 8, 1867, to establish a House of Refuge, and repealing section 11 of said act, was taken up on the final reading.

Mr. BAXTER. The principal feature of the bill is to make the age of admission 16 years instead of 18 years, and to obviate the difficulty which has invited and brought in persons 22 and 23 years of age, instead of mere youths, which is to defeat the object of the House of Refuge. Another provision is that the money shall be paid by the State Treasurer into the hands of the Treasurer of that institution, as it comes into his possession. Another feature is that parents, etc., are allowed to introduce inmates in certain cases by paying their expenses.

It was finally passed the House of Representatives—yeas, 92; nays, 3.

EXEMPTION LAWS.

Mr. Shirley's bill [H. R. 30] to so amend the 445th section of the practice act so as to reduce the restriction of the sale of property under execution to one-half the appraised value, was rejected on the third reading, by yeas, 27; nays, 57.

CITY IMPROVEMENTS.

Mr. Branham's bill [H. R. 71] to amend section 60 of the city corporation act of March 14, 1867, authorizing cities on petition to extend aid to other than railroad enterprises, was taken up on the final reading.

Mr. WALKER. This is the bill that failed the other day, for want of a few votes, to get the constitutional majority. Gentlemen who have heretofore been against it, it seems, did not understand it. I therefore desire to make this statement. It introduces no new principle of law. It is an exact copy of section sixty of the act already in force, and it amends that by giving to city councils authority, on petition, to aid in the construction of public improvements, buildings or works of public utility of permanent value to the city, in cases where a majority of the freeholders petition for them. It neither adds to nor takes from the legal provisions for city aid to railroads and macadamized roads. It can in no way affect non residents of the cities. It cannot reach to the country. Neither the old law nor this admit of this aid on a majority of the citizens or tax-payers, but it must be upon petition of a majority of the freeholders. In behalf of the people where I reside, I ask for this bill the cordial support of the House.

The bill was finally passed the House of Representatives—yeas 69, nays 16.

Mr. Johnson's bill [H. R. 137] to amend the criminal practice act of June 17, 1852, was considered, and ordered to be engrossed.

Messrs. Brett, Hedrick and Given presented claims, and Mr. Hatch presented the petition of citizens of Newton county, for the repeal of the Kankakee drainage law, which were referred, under the rule.

The House took a recess till two o'clock p. m.

AFTERNOON SESSION.

The SPEAKER resumed the chair at 2 o'clock p. m., and took up the special order of the day, viz: Mr. Wilson of Ripley's Mileage and Per Diem bill [H. R. 73.]

Mr. BUTTERWORTH, on whose motion the special order had been made, in view of the sparse attendance of members, moved that the bill be referred to the Committee on Ways and Means.

It was so ordered.

The SPEAKER then returned to the call of the roll for

NEW PROPOSITIONS.

Mr. WALKER introduced a bill [H. R. 159] to regulate the practice of dentistry in the State of Indiana. Dentist to hold a diploma, or a ceitificate of qualification from the State Dental Association. Penalty, $10 to $200.]

It was referred to the Judiciary Committee.

Mr. CAUTHORN, a bill [H. R. 61] to abolish the Court of Common Pleas in the State, and establish a Probate Court in each county; to provide for the judges thereof, their compensrtion, and the transfer of business to the Circuit and Probate Courts.

It was referred to the Committee on the Judiciary.

CORRECTION ON CITY TAX LISTS.

Mr. CAUTHORN introduced a bill [H. R. 162] for an act to authorize cities to correct erroneous listings in the description or assessment of real estate liable for city taxes, and when corrected to collect all taxes due thereon, and to authorize them to order the correction of false and fraudulent lists of property or the value thereof. He explained the provisions of the bill at length. It gives the city authority, where real estate has been incorrectly listed or described, to change and correct it. The second section is to enable cities to correct erroneous or fraudulent listings by taxpayers—I will move for a suspension of the rules and restrictions that it may be at once put upon its passage.

The restrictions were suspended and the bill was finally passed the House of Representatives; yeas, 72; nays, 2.

EMPYRICISM IN MEDICINE.

The SPEAKER announced the consideration on the third reading of Mr. Satterwhite's bill [H. R. 101] for protection from empyricism, and to elevate the medical profession.

Mr. WOODARD objected to the bill because he desired the largest liberty to employ any physician of his own choosing. It requires practice to make a good doctor. Practice makes a good doctor—better than theory.

Mr. WILLARD had conferred with physicians, and the fault they find with it is that it does not do enough. It is well known that any man to-day can send to various medical colleges and secure a diploma for $10. This bill shuts out those who have studied under a physician but are without a diploma. We want a bill that shall establish a medical board in each county, before whom physicians shall be able to stand an examination. The diploma system has been proved to be a fraud. I shall oppose this bill, in hopes of finding a better one.

Mr. GIFFORD. The gentleman (Mr. Woodard) thinks it not necessary for a physician to be a professional man. That may be true: but the bill provides that a man qualified by practice shall be admitted to practice. Many good physicians never had a diploma. So far as this bill is concerned, I believe it covers all the ground, and I shall support it.

Mr. BUSKIRK. For my part, I claim it as an inalienable right, if I prefer some old woman to doctor me, if I find that she does me more good than the city physician—if I so decide on my own responsibility, I claim the right to employ her. I believe with Oliver Holmes, that if all the medicine were thrown into the sea, it would be better for men, but death to the fish. [Laughter] I believe in homœopathy and hydropathy, and all the pathies, and I shall vote against exclusive privileges in medicine.

Mr. BUTTERWORTH. I think I shall vote against the bill, but I wish to remove the impression that it is in the interests of the allopathic school. It provides that no man shall practice without a diploma or a certificate. It places all the pathies on an equality. The object of the bill is simply to require of every man who pretends to be a doctor that he shall understand what he professes. My objection to the bill is this: It would throw out those mothers-in-Israel who practice obstetrics.

Mr. WALKER would support the bill. It was mild in form—directed against no particular school—but it would label the poisoner, as the law does now the poison. It will reach the scores of empyrics and quacks who are going out everywhere in the State, to whose story the suffering people will listen, pay their last dollar and receive no benefit. The school teacher must have the certificate of qualification, and should we not require of the physician having the care of our health that he also shall give assurance of qualification? If it would be more satisfactory to the gentleman from Gibson [Mr. Buskirk] let the provisions of the bill be so changed as to give him a midwife. I would not divorce him from his inalienable rignts. Our county medical societies ramify every county in the State, and if the emulous doctors have not the requisite knowledge of books, let them be remanded to them till they shall be qualified for their responsible work.

Mr. RICHARDSON felt very little interest in the bill, but discovered that gentlemen were considering it under a misapprehension. It was not in the interests of physicians, but of the people. Medical men would bear him out in this statement. Their indifference to the bill is because it does not go far enough to secure the required protection. Do gentlemen fear that some old lady, or some particular friend may not be permitted to practice medicine? Why does the gentleman from Gibson claim the right to employ his own physician, so long as the Constitution of the State does not allow him to employ a lawyer who has not a good moral character?

Mr. HATCH. This bill is for the protection of the people. Physicians do not need protection. I support the bill because graduates of every school having certificates of the county medical society, would by its provisions be admitted to practice—giving every medical school credit for sound instruction in anatomy and physiology—the groundwork in the practice of medicine.

Mr. SATTERWHITE introduced this bill, though not of the medical profession. He had consulted a number of physicians as to its provisions, and some had submitted a few suggestions, amounting to nothing It was similar to the law of the State of Ohio, which seems to work well there. It is more in the interests of the people than of the profession, and I think it may be at least a stepping stone to something better.

Mr. MELLETT. I feel very much disposed to protect myself from quacks, but I question whether this bill will do it. The tests which it proposes for a physician are three: First—a diploma from a medical college, which, although not conclusive evidence of a physician's fitness, it is in that direction. Next—a certificate from a medical board. And the third test is the pandora's box that lets out all the evils; it requires that he shall have one of the two certificates mentioned, or he shall have been a practicing physician for ten years. I should prefer that it read one year instead of ten, for the quack of one year is not as bad as the quack of ten years.

The bill failed on the final reading—yeas 40, nays 36—for lack of the constitutional majority.

CHANGE OF VENUE.

Mr. Offutt's bill [H. R. 104] to amend the seventy-eighth section of the criminal practice and procedure act of June 17, 1852 (taking away the discretion of the judge as to the change of venue upon affidavit of prejudice in criminal causes), was taken up in order on the third reading.

Mr. OFFUTT. We have been reminded time and again that all members of this body are not lawyers; and perhaps all do not understand the purpose and object of this proposed change or amendment of the law as it now stands. This bill proposes to place the criminal and civil law on the question of a change of venue on the same footing. The law now provides that changes of venue in civil cases shall be granted by the judge upon proper evidence, setting forth the fact of the existence of undue prejudice or excitement; the criminal law leaves it discretionary with the judge in such cases, to grant or refuse the change. This bill proposes to amend the law so as to make it absolute—so as to take away the discretionary power of the judge, as it is now done in civil cases. I think that in cases where a man's life or liberty is involved, he ought to have a change of venue quite as readily as where his property only is concerned. And as the House has already voted to refuse to go back and give the judge his discretion as to a change of venue in civil cases, it would seem that it ought to be ready to support this bill.

Mr. MILLER considered that much the larger portion of the affidavits for a change of venue in criminal cases, are either founded in perjury or in a misapprehension of the parties. It seems to me that it is always possible, in any ordinary case, to get an unprejudiced jury, and the constitution requires trial by a jury of peers. And when you come to apply the law, as it is here proposed to be amended, you will give to nine-tenths of the criminals the means to prevent a trial. It would become a part of the practice to change the venue. Nearly every criminal wants time—time for witnesses to die or move away; and the result would be the avoidance of trial. Another objection to the bill would be the immense expense which it would devolve upon the officers of the court and the State, in the service of process and the continued application for allowance of witnesses. I think the whole policy of the bill is in the interests of the criminal.

Mr. WILSON of Ripley. I hope this bill will pass. The State has no interest in punishment unless the party is guilty. The Constitution credits the presumption of innocence and grants the right of an impartial trial. It has been remarked that in civil cases, where there is nothing but the question of the right of property, the judge has not the discretion to refuse a

change of venue, whilst in criminal cases, where life and liberty are in the issue, the discretion is with the judge. I have seen in many cases where the change has not been granted, that it has been because the court itself partook of the local prejudice. We ought to afford and secure to every citizen a fair trial; and we ought not to repose on the judgment of any one man to say whether there is or is not undue or unsafe prejudice or excitement. If we were to proceed upon the ground that every man charged with crime is guilty, I could see the force of the gentleman from Decatur's argument. There has been a bill introduced here [Mr. Lenfesty's] to make the civil practice conform to the criminal in changes of venue; and the Judiciary Committee reported for its indefinite postponement, because they considered that the judge should not have the discretion to refuse. I repeat my observation that whenever this discretion has been used, it has been uniformly against the prisoner; and but for the prejudice of the judge the change of venue would have been granted. The judge is but a man—having the passions and impulses of a man—partaking of the feelings and prepossessions of the people, and controled by the same prejudices.

Mr. SHUTT considered that the changes of venue result in the avoidance of justice, and certainly in much expense and vexation without pay. I think the criminal ought to get justice at home. There is danger of too much sympathy for him.

Mr. COBB also considered the danger of too much sympathy for the criminal. If this recommendation of the Judiciary Committee is right—and I think it is—then had we not better leave the law as it is? because witnesses and others have to attend these trials, by order of court at a great distance, and receive no pay; and I do not question, that in many cases, where these changes of venue would be made, the criminals that would escape by them would be those who are guilty of the most heinous crimes. And if this be so, I think we ought not to increase the facilities for a change of venue. Now we have in various parts of the country parties organizing vigilance committees and lynch law. This of course, is all wrong; but it has its origin in the want of wisdom and vigilance in the law-making power. It seems to me that instead of making it more easy for the criminal to escape, we ought to frame the laws so as to make it more difficult for him to escape. It seems to me that the presumption of innocence till the prisoner is proved guilty is enough. I believe that experience teaches us that in nine cases out of ten the ends of justice in these cases do not require either continuance or change, and the judges generally recognize this doctrine. It seems to me that this bill ought not to pass—that we have gone far enough in that direction. Reaction may be good; but we should be guarded and careful not to go to far in reactionary measures.

Mr. OFFUTT. I have but a few words to add in support of this measure. Gentlemen have presented what might seem to be very good reasoning; but this is not a question of dollars and cents; it is a question of right and wrong. If it be right that the law should be amended in this respect, the question of the additional expense should not be taken into consideration. It has been said by one gentleman that criminal cases should be tried by a jury of peers, and he urges therefore that the bill should not pass. Now, I understand that by the Constitution of the State the jury is made judge of the law and the testimony. Still there is not a Judge but will lay down the law. But it is said that the criminal will change the venue till he wears out the patience of the Prosecuting Attorney, and till the witnesses either die or remove away, and thus the criminal will escape. But the gentleman has forgotten that the law only tolerates the change of venue, and I undertake to say that the objection raised by the gentleman is not such an objection as should have weight in determining whether this bill is right or wrong. It has been well remarked by the gentleman from Ripley, that where a man's life is involved, his rights should be as well secured as they are in cases where only his property is at stake. [He read from the statute the provisions with reference to the change of venue in the civil and in the criminal practice.] So we see that in civil cases it makes it imperative on the Judge to grant the change on the proper application; but when it comes to cases involving life and liberty then you will trust the Judge, and give him the discretion—although the affidavit may be filed in truth, he has it in his power to say to the prisoner: "Sir, you shall be tried before me, whether you are guilty or innocent" I say it in all candor and seriousness, this law is wrong; and that where a man's life or liberty is at stake, and where undue prejudice or excitement exists, he ought to be tried by impartial triers. My experience is, that where the Judge is impartial he will seldom refuse to grant the change. I think the bill is eminently

just and in the spirit of the Constitution, I say, sir, be a man guilty or innocent, he is entitled to a fair trial, to be tried by impartial triers, and in a county and by a jury that is not prejudiced or biassed against him. I think the bill ought to commend itself at once to the judgment of the House, and especially to the legal profession.

Mr. WALKER. As to the analogy between civil and criminal cases; ordinarily in civil cases they have no notoriety in the counry—they are not spoken of enough to prejudice men's minds so as to authorize a change of venue. Yet the State makes it imperative, takes the discretion of denial away from the court. Criminal cases, on the contrary, have notoriety; and the law is to provide against the too easy change of the venue in those cases that necessarily have notoriety, and are of such a character as necessarily to divide the minds of the citizens. I will not vote to retard the execution of the criminal laws; I would be in favor of its more rigorous administration. I would be in favor of giving the State the right to close the pleadings—the old principal of law. I would not be understood as voting for liberality in this direction by my vote on this bill; but this is the consideration: a criminal should have as fair a hearing as he can have in a civil case. My observation has been that some of our popular judges sometimes desire the notoriety of trying a celebrated case; but I simply wanted to draw a distinction between the notoriety of civil and criminal cases.

Mr. LENFESTY. I am interested in the defeat of this bill. It has been urged as one reason why this bill should pass, that as to a change of venue in civil cases the judge has no discretion. I introduced a bill to give him that discretion, and it was reported against. It is well understood that the administration of justice in our criminal practice is very expensive, and if this bill should pass I apprehend that it would increase the expense of the administration of justice three times over. What would be the result? Why, in every case, even where a boy mfght trespass on a neighbor's grounds, he may go into court and there, by filing his affidavit,—no matter what the pretense—he may take a change of venue to onother county.

Mr. OFFUTT. In cases of misdemeanor the defendant pays the costs. The gentleman's presumption of perjury is unfounded.

Mr. LENFESTY. I think that I am supported in the assertion that whenever the criminal requires a change of venue, he will not hesitate about the oath. The ends of justice are not so often defeated in the home trials. But I can call to mind cases where justice has been defeated by change of the venue, and they open a door to perjury, and make a large bill of expenses. And hence, also, I believe that the bill I introduced should have been passed. For, where property is destroyed by the railroads they pay no attention to the first trial, and appeal the case to some other court. [Cries of "order, order!" The SPEAKER. The gentleman from Grant will proceed.] I propose to show that instead of taking away the discretion of the judge in criminal cases, it should be exercised in civil as well as criminal cases, and I simply call attention to the fact that where stock is killed by the railroad, the farmer is virtually cheated out of his stock by not being able to follow the railroad company in their changes of venue.

The bill was rejected—yeas, 10; nays, 68.

IMPROVEMENT OF THE PUBLIC REVENUE.

Mr. KIMBALL presented a preamble and resolution requesting the Auditor of State to communicate to the House his suggestions for the improvement of the public revenues.

It was adopted.

Mr. WYNN submitted a resolution for an order (which was adopted) that the Secretary of State furnish a price list of the articles of stationery furnished to members of this House.

Mr. BRANHAM, on account of pressing business before the committees, moved for the adjournment.

Mr. WOODARD submitted a resolution (which was adopted) that a committee of five be appointed by the Speaker whose duty it shall be to inquire what legislation, if any, is necessary to protect the people of the State from oppressive taxation by counties and townships; and report by bill or otherwise.

The SPEAKER. That committee will consist of the gentleman and others—five members of the Committee on Ways and Means.

Mr. MELLETT presented the petition of 378 citizens of Delaware county protesting against aiding the State University to establish a Medical College, on the ground that it will be sectarian—controlled by one school.

The House then adjourned.

THE

BREVIER LEGISLATIVE REPORTS

THIRTEENTH VOLUME.

INDIANA LEGISLATURE.

HOUSE OF REPRESENTATIVES.

WEDNESDAY, December 4, 1872.

The House met and was called to order at nine o'clock a. m. by the Speaker, and prayer was offered by the Rev. Dr. Day, pastor of the First Baptist Church of this city.

On motion of Mr. BILLINGSLEY, the reading of the journal of yesterday was dispensed with.

REPORTS FROM COMMITTEES.

Mr. OGDEN, from the Judiciary Committee, returned Mr. Wesner's bill [H. R. 17] regulating the rate of interest on the loan, or forbearance of money or things in action, and repealing, etc., recommending that it be indefinitely postponed.

The report was concurred in.

Mr. WILSON, from the Committee on the Judiciary, returned Mr. North's bill [H. R. 139] regulating the expenses incurred by any county by a change of venue from another county, with amendments, inserting a rule for certifying such allowances to the county from which the cause was taken; for a declaration of emergency for immediate taking effect, etc.

The amendments were adopted, and so the bill was ordered to be engrossed for third reading.

Mr. MILLER returned his bill [H. R. 115] to repeal the act regulating the sale of patent rights, and prevent frauds in connection therewith, which took effect April 23, 1869, recommending its passage.

It was ordered to be engrossed.

MECHANICS' LIEN.

Mr. BUSKIRK returned Mr. Lenfesty's bill [H. R. 136] to amend section 654 of the practice act, recommending that it be indefinitely postponed.

Mr. LENFESTY hoped the report would not be concurred in, as it amended a section under that which held that where a mechanic does work on any building, or furnishes material for the construction or repair of any building, he shall have a lien thereon; even after the owner has paid up in full the original contractor, any workman under him may also file his lien. The amendment is, that where the sub-contractor files his lien, or gives notice of it to the owner, he shall be liable, but not for more than his contract with the original contractor. The present lien is an outrage. Taking this particular section of the practice act, and it would appear that the owner is not liable for more than is in his hands belonging to the original contractor; but according to the decision of the Supreme Court, the owner is liable to the sub-contractor, although he has paid the original contractor in full.

Mr. BUSKIRK said, in the opinion of a majority of the Judiciary Committee, the bill would discriminate against the interests of the poor laborers, and in favor of those better able to endure losses by the dishonesty of contractors, and therefore the committee thought it best to report adversely to the bill. They thought the owner of the building ought to assume the responsibility for such dishonesty of the contractor.

Mr. BILLINGSLY opposed concurrence.

Mr. MILLER said that for the remedy of the hardships that might bear on the owner of the building it would be necessary to amend another section of the act, a section which is not the one proposed to be amended by this bill.

Mr. LENFESTY explained that it is proposed in this bill that when any workman is not being paid, then he may give the owner notice of his right, and, by giving proper notice from that time forth the owner becomes liable till the work is paid for.

Mr. JOHNSON thought the bill a good one, but it did not accomplish the object. The amendment was to the wrong section.

Mr. LENFESTY. It may be possible that I have got the wrong number of the section. I would like to have it recommitted for examination.

It was so ordered by unanimous consent.

Mr. JOHNSON, from the Judiciary Committee, returned Mr. Gregory's bill [H. R. 133] to repeal sections fifty-three and ninety-eight, and to amend section ninety-seven of the practice act of June 18, 1852, recommending indefinite postponement.

Mr. GREGORY would like to see the bill pass, and thought it might if the House had the time to consider it. It is a bill for the purpose of avoiding delays in the administration of justice, by restraining amendments on the trial; and it would to some extent cut off the practice of what are called constitutional lawyers. Under our too liberal statutes they can continue from time to time and compass the delays of justice.

The report was concurred in and the bill indefinitely postponed.

MEMORY OF MR. GREELEY.

Mr. CAUTHORN, from the special committee appointed under Mr. Hardesty's resolution of yesterday, submitted and read the following:

Mr. Speaker: The Select Committee appointed to take order on the occasion of the death of Horace Greeley, have instructed me to make the following report:

In connection with our fellow citizens, we deeply deplore the loss by death of so great and so good a man as Horace Greeley. The sad news has found its way, not only to every city, town and hamlet of his native continent, but on the globe, is only limited and confined by the bounds of civilization and intelligence. His life is not only a lesson but an example which commends itself to every aspiring mind in coming years, and is full of hope and promise. He commenced life poor and unknown, he left it rich and with a fame world wide. For thirty years he has occupied a prominent position before the American people, and that peculiar field of labor that invites criticism and censure. Yet during all those thirty years of journalistic pre-eminence, he has maintained a reputation unspotted and without reproach. No man of his time has impressed his peculiar views upon the institutions of the country more fully or completely than Horace Greeley. Nearly every principle advocated by him, no matter how unpopular at first, finally received the sanction of the people. And his devotion to principle regardless of popular feeling is the highest evidence of his honesty and worth. Many designing demagogues cling to dominant political parties for self-aggrandizement, but not so with Horace Greeley. His convictions of right and wrong determined his course, and he worshipped at the shrine of duty with an Eastern idolatry. He was the friend of the slave when friendship for him was a political crime. But regardless of self, he followed his conviction of right and labored for his enfranchisement through good and through evil report, until at length he witnessed the full fruition of his labors in the complete triumph of his principles.

Horace Greeley is the first person who, after a lifetime spent in political strife and discord, in the short space of a political canvass, overcame the prejudices of his political opponents and received with great unanimity their indorsement and support. His death is a striking illustration of the uncertainty of human life. On the first of May last he was nominated by a respectable convention of his fellow citizens in Cincinnati for the highest office on earth. On the 12th of June last his nomination was indorsed and ratified by the Democratic party of the great State of Indiana, and on the 7th of July last was ratified and indorsed by the Democratic party of the nation in convention assembled at Baltimore, and on the 6th of November he was voted for by more than 2,000,000 of his fellow citizens for President of the United States, and on this day he was to be voted for by the chosen electors of the people for that high office, but instead thereof his mortal remains are to be committed to the cold and silent grave. In his death our country has lost a distinguished citizen, the world an accomplished man, science a follower, literature a friend, philosophy a star, and labor a devotee. In memory of such a man we might do many meaningless things. We might shroud this hall in black, and resolve to wear the feelingless crape. But we prefer

to let each member in his own way manifest and express his respect and regret, and recommend the adoption of the following resolution:

RESOLVED, In respect for the memory of Horace Greeley that this House do now adjourn until to-morrow morning.

JOHN E. RUMSEY, Chairman,
HENRY S. CAUTHORN,
JOHN O. HARDESTY,
JOHN T. RICHARDSON,
C. A. RUSKIRK.

The report was concurred in, and the resolution adopted unanimously by a rising vote; and the Speaker ordered the adjournment accordingly.

THE

BREVIER LEGISLATIVE REPORTS

THIRTEENTH VOLUME.

INDIANA LEGISLATURE.

IN SENATE.

THURSDAY, December 5, 1872.

The Senate met at ten o'clock a. m., pursuant to adjournment, President Friedley in the chair.

The session was opened with prayer by the Rev. Dr. Day, of the First Baptist Church of this city.

The reading of the Secretory's minutes of Tuesday's proceedings was dispensed with.

PETITIONS.

Mr. O'BRIEN presented a memorial from the trustees and school trustees of the town of Cicero, in reference to legalizing certain school bonds.

It was referred to the Committee on Corporations.

Mr. NEFF presented a petition from one hundred and forty-eight farmers of Randolph county, asking for the passage of a law to prevent hunting or shooting on enclosed grounds without the consent of the owner.

It was referred to the Committee on Rights and Privileges of the Inhabitants of the State.

Mr. ORR presented a petition from the taxpayers of Delaware county, praying that the county and township railroad aid act may be repealed or modified, so that two-thirds of the voters of the county or township might vote affirmatively before the tax can be authorized.

It was referred to the Committee on County and Township Business.

Mr. WADGE presented a petition signed by 1,262 citizens of Lake and Porter counties, asking for the unconditional repeal of the Kankakee draining law.

It was referred to the Committee on Corporations.

Mr. STEELE presented a petition from the citizens of Grant county, asking for the passage of a law to regulate the sale of intoxicating liquors substantially the same as that of Ohio and Illinois.

It was referred to the Committee on Temperance.

Mr. MILLER moved that the order of business be suspended to take up the bill [H. R. 9] to create the Twenty-second Judicial Circuit.

The motion was agreed to and the bill was read by title and referred to the Committee on the Organization of Courts.

Mr. TAYLOR offered a petition from taxpayers of Tippecanoe county praying for the repeal or amendment of the law authorizing counties and townships to extend aid to railroads.

It was referred to the Committee on Corporations.

Mr. WINTERBOTHAM presented a petition from citizens of Laporte county, asking for the repeal of the drainage law.

It was referred to the Committee on Corporations.

Mr. DAGGY presented a petition asking for the passage of laws to regulate the sale of intoxicating liquors.

It was referred to the Committee on Temperance.

Several other petitions were presented on the subject of the drainage law and

temperance and referred to the appropriate committees.

By Mr. DWIGGINS, from the citizens of Jasper.

By Mr. SLEETH, from citizens of Decatur county, similar to the one presented by Mr. Taylor.

WABASH AND ERIE CANAL.

Mr. STEELE, from the Committee on Finance, returned the bill [S. 85] to protect the Wabash and Erie Canal and the tolls and revenues thereof from sale or sequestration, with a favorable report.

Mr. BROWN moved that the report lie on the table and the bill be read the second time now.

Mr. HARNEY moved to have the report and bill both laid on the table, as the minority of the committee had not been heard from.

The motion to lay the report on the table was adopted.

Mr. BROWN moved to read the bill the second time now. [It provides for the payment of 191, or thereabouts, of the State bonds or stocks, which have never been surrendered under the Butler bills.]

The motion was agreed to and the bill was read by the Secretary.

Mr. BROWN moved that the bill be made the special order for to-morrow morning at half past ten o'clock.

Mr. GLESSNER moved to amend by making it the special order for next Monday at two o'clock.

Mr. DITTEMORE moved to lay the amendment on the table, which prevailed, yeas 28, nays 18.

Mr. Brown's motion was then adopted, yeas 34, nays 12.

On motion of Mr. BROWN, the minority of the committee were given leave to present a minority report at the hour for the special order.

REPORTS FROM COMMITTEES.

Mr. HUBBARD, from the Committee on Corporations, reported that the bill [S. 40], by error, purports to amend a bill which has been repealed, and submitted a substitute to amend the act in relation to the establishment of medical schools and the incorporation of loan and trust companies, recommending its passage.

The report was concurred in.

He also returned, with favorable reports from the same committee, the bill authorizing cities to convey their real estate, with the consent of two-thirds of the council. The bill [S. 35] providing that mayors or city judges shall have jurisdiction throughout the townships, and the bill [S. 10] amending the city corporation law so that all lands in the city limits shall be subject to taxation.

The reports were concurred in.

Mr. ARMSTRONG, from the same committee, returned the bill [S. 31] supplemental to the plank and gravel road act, with a favorable majority report thereon.

Mr. DWIGGINS submitted a minority report on the same bill, with an unfavorable recommendation.

Mr. GLESSNER moved that the reports lay on the table, and that 150 copies of the bill be printed.

The motion was agreed to by yeas 28, nays 14.

Mr. HUBBARD, from the Committee on Corporations, reported favoring the bill [S. 33] to amend the charter of the Indianapolis Fire and Marine Insurance Company, with an amendment so as to prohibit the company from doing business until $50,000 of its capital stock is paid in, and that the bill, as thus amended, be passed.

The report was concurred in.

Mr. ORR, from the Committee on Roads, returned the bill [S. 81] to authorize the election of a county engineer and three road commissioners, recommending that it lie on the table.

The report was concurred in.

Mr. CAVE, from the same committee, returned the bill [S. 104] to repeal the plank and gravel road assessment acts, with amendments.

The report and bill were laid on the table.

Mr. OLIVER, from the Committee on Public Builings, returned the bill [S. 29] to provide for the enlargement of the State House grounds, with a favorable report.

It was concurred in.

Mr. BEESON, from the Committee on Temperance, returned the bill [S. 14] to amend the liquor law, directing the amount paid for license to be given to the local school fund of the township, instead of the common school fund, recommending that it lie on the table.

The report was concurred in.

Mr. HOUGH, from the Committee on County and Township Business, reported back bill No. 24, to amend the act in relation to the supervisors of highways with amendments.

Mr. ORR, from the same committee, reported in favor of the passage of bill No. 74 to legalize the acts of County Commissioners at meetings held on days other than those fixed by law.

These reports were concurred in.

Mr. HOWARD, from the Committee on County and Township Business, returned

the bill [S. 47] to repeal the fish law, with a recommendation that it be laid on the table.

The report was concurred in.

Mr. SCOTT, from the Committee on Education, reported favoring the bill [S. 89] to provide for the issue of a non-negotiable bond to the school fund for monies borrowed therefrom by the State.

The report was concurred in.

CALUMET DAM.

Mr. WADGE, from the special committee thereon, returned the communication of the Governor in relation to the Calumet Dam, recommending the passage of a concurrent resolution directing the Attorney General to repair at once to Chicago, or wheresoever an injunction has been served by an Illinois Court, and learn the exact grounds on which the injunction was based, and see what prospect exists for the speedy removal of the dam, and report at the earliest opportunity.

It was adopted.

RAILROADS.

Mr. BROWN, from the Committee on Railroads, returned the bill [S. 13] providing that railroad companies shall have their principal office of business in this State, recommending that it lie on the table.

It was concurred in.

SCHOOL FUND.

Mr. DITTEMORE offered a resoiution for the appointment of a select committee of three to inquire into the cause of the failure to distribute the school fund—some $560,000, and all circumstances relating thereto.

It was adopted.

The PRESIDENT subsequently appointed Messrs. Dittemore, Daggy and Brown as said committee.

NAMES OF STREETS.

Mr. ORR offered a resolution that the Committee on Corporations examine into the expediency of requiring incorporated towns to post up the names of each street at the crossing thereof.

It was adopted.

OPPRESSIVE TAXATION.

Mr. CHAPMAN offered a resolution authorizing the appointment of a committee of five to inquire what legislation is necessary to protect the citizens from oppressive taxation by cities and towns.

It was adopted.

The PRESIDENT subsequently appointed Messrs. Thompson, Steele, Taylor, Rhodes and Smith as said committee.

RESOLUTIONS.

Mr. BOONE offered a resolution requesting the clerk of the Cass County Court to furnish a complete transcript of all papers and proceedings incident to the cause of John W. Garrett, et al., vs. the trustees of the Wabash and Erie Canal.

Mr. BROWN objected, and said that the transcript could not probably be furnished during the session of the General Assembly, and moved that the resolution be laid on the table.

The motion was agreed to—yeas 25, nays 19.

Mr. DAGGY, Mr. HOUGH and Mr. SARNIGHAUSEN, when their names were called, explained that they voted in the affirmative because the transcript could not be produced in time to be of any benefit.

Mr. RHODES offered a resolution that the original manuscript of the journal of the Senate be preserved, in accordance with the recommendation of the Governor.

It was adopted.

Mr. DITTEMORE offered a resolution to allow the members of the Committee on Prisons of the session of 1871 $30 each to reimburse them for expenses incurred in two trips to the Southern Prison.

It was referred to the Committee on Claims.

Mr. BROWN offered a resolution directing the Auditor of State to issue his warrant to A. and W. H. Drapier for the same number of copies of the Brevier Reports of the 47th General Assembly as have been furnished since 1857, at the same price.

On motion of Mr. SCOTT, the resolution was referred to the Committee on Claims.

The Senate then adjourned till two o'clock p.m.

AFTERNOON SESSION.

The Senate met at two o'clock.

The PRESIDENT laid before the Senate a communication from the Auditor of State, embracing advance sheets of his report in relation to the Sinking Fund.

NEW PROPOSITIONS.

Bills for acts were introduced, read the first time and passed to the second reading, to wit:

By Mr. BOWMAN: a bill [S. 118] for an act to repeal all laws in force establishing courts in the Second Judicial Circuit, and

fixing times for the holding of courts in said circuit. [It affects the counties of Scott, Jackson, Lawrence, Washington, Harrison, Clark and Orange.]

By Mr. BEESON, a bill [S. 119] for an act to amend the act establishing Courts of Common Pleas, defining their jurisdiction and prescribing the duties of judges thereof. [It proposes concurrent jurisdiction with Justices of the Peace for Courts of Common Pleas.]

By Mr. ARMSTRONG, a bill [S. 120] for an act to protect the ballot box, procure a fair election, prescribe the crime of felony and the punishment thereof. [The bill makes it a misdemeanor for any person to vote at any election in a precinct where he is not by law entitled to vote, for any person to tamper with the ballot boxes, etc.

By Mr. THOMPSON, a bill [S. 121] for an act to amend section 12 of the county and township railroad aid act of May 12, 1869, authorizing counties and townships to grant aid to railroad corporations, so as to provide that such aid may be extended to such corporations upon a vote of two-thirds of the property holders to an amount not exceeding one per cent. upon the taxable value of their property.

By Mr. GLESSNER, a bill [S. 123] for an act to amend section 22 of the the act of June 4, 1852, concerning inclosures, trespassing animals, and partition fences. [The amendment relates to partition fences between farms or lots.]

By Mr. WILLIAMS, a bill [S. 124] for an act to define what shall be the salary of the Governor, and the manner of paying the same, and declaring an emergency. [It provides for an annual salary of $7,000 in full for all services and house rent, to be paid quarterly.]

By Mr OLIVER, a bill [S. 126] for an act to provide for the finishing of the State building on the corner of Tennessee and Washington streets, by erecting stone platforms in front of said building on each street, in conformity with the original plan

By Mr. RHODES, a bill [S. 127] in relation to the collection of promisory notes given on contracts for patent rights or territory for patent rights.

By Mr. HUBBARD, a bill [S. 128] for an act relative to the rights and powers of married women. [The property of any female previous to marriage, or such as she may receive by bequest or otherwise afterward shall be hers, to be disposed of in the same manner as though she were not married.]

By Mr. DAGGY (by request), a bill [S. 129] to allow any persons, not less than nine in number, to form insurance companies for the insurance of persons against fire, death, disabilfty or losses on animals, etc., provided that the capital stock shall not be less than $100,000. [The bill provides, in detail, for the organization and conduct for such companies.]

HOUSE BILLS PASSED.

On motion by Mr. ORR the bill [H. R. 21] providing for the completion of unfinished business of any regular or special session of the General Assembly by the next succeeding session of the General Assembly, was read the third time and passed, by yeas, 40; nays, 0.

Mr. BEESON moved to suspeud the order of business and take up the bill [H. R. 98] to make special appropriations for purposes therein mentioned. It makes an appropriation to the State Normal School of $4,011.99; $7,000 for the State Prison, south, to repay borrowed money; and $18,881.62 to pay money borrowed by the House of Refuge, and $3,500 to pay other indebtedness, and $4,000 to meet current expenses of the House of Refuge to the close of the fiscal year, ending April 1, 1873.

The motion was agreed to.

On the further motion of Mr. BEESON the bill was read the third time and passed, yeas 42; nays, 0.

Mr. BEESON moved to take up the bill [H. R. 92] to amend the act to establish a House of Refuge, for the correction and reformation of juvenile offenders. Approved March 8, 1867, and to repeal section 11 of said act, reducing the age of offenders who may be admitted to the House of Refuge from eighteen to sixteen. The motion was agreed to, and the bill was read the first and second time, by title, and on further motion was read the third time.

A message from the House of Representatives announced the passage of the Senate concurrent resolution for printing the report of the Trustees of the Institution for the Blind. Also, the bill [H. R. 70] with reference to county aid for railroads.

The appropriation bill [H. R. 92] then passed the Senate—yeas, 35; nays, 8.

Mr. DWIGGINS offered a resolution declaring that as the advance sheets of the Auditor's report show there was due the school fund from the sale of swamp lands, $63,226.76, and on account of loans $107,106.26, in all $170,330.02, the Committee on Finance be directed to report a bill authorizing the payment of said sum to the school fund, and distributed to the several counties.

It was adopted.

GOVERNOR'S SALARY.

On motion by Mr. WILLIAMS the bill [S. 38] supplemental to the Governor's rent act of February 25, 1865, confirming all sums of money paid to Governor Baker on account of rent, not exceeding $5,000 a year, was read the second time.

On his further motion the bill was read the third time and passed the Senate—yeas, 43; nays, 0.

Mr. WILLIAMS moved that his bill [S. 124] for an allowance of a $7,000 annual salary to the Governor be put upon its passage.

The motion was agreed to.

Accordingly the bill [S. 124] to define what shall be the salary of the Governor, the manner of paying the same, and declaring an emergency, was read the second time.

Mr. THOMPSON said that while the two preceding Governors had received about $8,000 per annum, the bill proposes to give the incoming Governor but $7,000. He bore testimony to the ability and good character of Governor Hendricks, and hoped that the bill would be amended so as to make the salary of the Governor $8,000.

Mr. DITTEMORE proposed an amendment to strike out $7,000 and insert $8,000.

Mr. DWIGGINS moved to amend further so as to provide that the salary shall be $8,000 a year, until an executive mansion shall be furnished by the State, and after that $5,000.

Mr. BEESON favored the amendment of Mr. Dittemore. He said he had been here for several years in association with the Governor, and, farmer as he was, he would not take the office for $8,000 a year.

Mr. HOUGH hoped Mr. Dittemore's amendment would not prevail. He hoped the time would never come when men would seek the Gubernatorial chair for the sake of the emoluments belonging to the office.

Mr. O'BRIEN said that the original bill came from the friends of the Governor elect, and if they were satisfied with $7,000 he didn't see the necessity for increasing it.

Mr. DITTEMORE accepted Mr. Dwiggins' amendment.

Mr. DWIGGINS said he did not offer the amendment as a partisan, but in order to make the salary of the Governor what it ought to be. No man of the ability of Governor Morton, or Governor Baker, or Governor Hendricks, could take the office at $8,000 a year, except at a pecuniary sacrifice.

Mr. THOMPSON has been the physician to every Governor of Indiana since Governor Whitcomb, and knew whereof he spoke when he averred that none of them have made any money out of the emoluments of the office.

On motion by Mr. STEELE, the amendment (Mr. Dwiggins') was laid on the table.

Mr. DITTEMORE renewed his amendment to strike out $7,000 and insert $8,000 in lieu.

The amendment was adopted, yeas 35, nays 9.

On motion by Mr. WILLIAMS, the bill was read the third time and passed, yeas 30, nays 9.

The Senate then adjourned until ten o'clock to-morrow morning.

THE

BREVIER LEGISLATIVE REPORTS

THIRTEENTH VOLUME.

INDIANA LEGISLATURE.

HOUSE OF REPRESENTATIVES.

THURSDAY, December 5, 1872.

The House met and was called to order by the Speaker at 9 a. m.

On motion of Mr. LENFESTY the reading of the journal was dispensed with.

Mr. BUTTERWORTH moved a call of the House.

The motion was agreed to.

On the call seventy three members answered to their names, when, on motion of Mr. Butterworth, further proceedings under the call were dispensed with.

Mr. BILLINGSLEY asked and failed to obtain leave for the special committee on the Carroll county (Grimes) case to sit during the session of the House

REPORTS FROM COMMITTEES.

Mr. KIMBALL, from the Ways and Means Committee, returned Mr. Wilson's, of Ripley, eight dollar mileage and per diem bill [H. R. 73] recommending reference to the Committe on Fees and Salaries.

The report was concurred in.

ASSESSMENT LAWS.

Mr. KIMBALL also reported, from the same committee, the matter in pamphlet print of a bill [H. R. 163] for an act to provide for a uniform assessment of property, and for the collection and return of taxes thereon.

On motion by Mr. BRANHAM it was read twice by title and referred again to the committee.

CLAIMS.

Mr. RIGGS, from the Committee on Claims, successively returned the claim of Stearns Fisher, for $52; of Julius Bœttcher, for $465; of W. B. Baker, for *Evening Mirror* furnished; of J. G. Greenwalt, $1,500; of John Brownlee, $1,000; and Mr. Lenfesty returned the claim of the Indianapolis *Commercial* Company, for $78; of William B Walters, $52; of the Guttenburg Co., $323 44, for newspapers furnished the House of Representatives, recommending the allowance thereof.

They were concurred in, and the same were referred to the Committee on Ways and Means, with instructions that they be placed in the specific appropriation bill.

Mr. COBB reported against the claim of J. C. Graham for $50, and the claim of Jeffersonville Railroad Company for $65 55.

It was concurred in.

CUSTODY OF THE PUBLIC MONEY.

Mr. MILLER, from the Committee on the Trust Fund, returned Mr. Woollen's bill [H. R. 24] to provide designated depositories for the safe keeping of the public money in the several counties, and prescribing penalties with an amendment giving power to the authorities to move such money when they deem fit. He said: The provisions of this bill have respect to the custody of all the public funds of the State.

Mr. BRANHAM was opposed to any change in the law for the care of public funds which contemplated their distribution among a number of depositories. The

correct principle was to collect only sufficient revenue to secure a fair working balance in the Treasury, and that should be kept where the law now requires it to be kept—in vaults of the Treasury. He moved to lay the whole matter on the table, but withdrew his motion at the request of Mr. Woollen, who wished to say something in defense of the bill, as its author.

Mr. WOOLLEN said the present system of keeping the public funds was wrong. It is well known that the money is not kept in the vaults of the State Treasury, as required by law; but that on the contrary it is deposited in various banks, and the public officers are drawing and pocketing the interest thereon. It is this fact which in a large measure causes the present stringency in money. In the neighborhood of $600,000 of the public funds is held by the banks on deposit, and during the session of the Legislature they are constantly fearful least they may be called upon to pay over these deposits. This operates to lock up a large amount of currency and cause stringency.

The object of this bill is to provide that when the money comes into the hands of the public treasurer it shall go from him into the hands of the depositories, guarded by law so that it shall be safe, and that the depositories shall give a fitting compensation for it, which proceeds shall go into the pockets of the sovereigns of the country who own it. The practical working of the present law is that the proceeds of this money go into the pockets of the public officers. I do not know how the law against it is avoided. But so it is; these proceeds go into the hands of the State officers to the extent of $30,000 or $40,000 annually. Then I say we ought to have some good practical law on this subject that will meet the exigencies of the times. I would not lay my hand on a dollar of this interest that has got into the hands of the public officers under the present law. It is theirs and they have a right to it. But, clearly, the interest accumulations of the public funds should belong to those who own the public funds. I hope the motion of the gentleman will not prevail; but that he will examine the bill, and, if he finds it a good thing, vote for it.

Mr. SHIRLEY said the present system of keeping county funds was one cause of the depreciation in value of county orders. County treasurers loaned the moneys to banks and pocketed the interest, while county orders went unpaid, because there were no funds in the treasury. He regarded it as a great outrage upon the people that public officers should bank upon the public funds.

Mr. COBB objected that the bill opened a loop hole for fraud by releasing sureties. The funds were now guarded loosely enough.

Mr. WOOLLEN explained that there was, under the provisions of the bill, no release of the sureties of the officers until after the bond of the depositaries had been filed.

Messrs. BUSKIRK and BUTTS also spoke in favor of the provisions of the bill.

The amendments reported by the committee were concurred in, the bill laid upon the table and 500 copies ordered to be printed.

REPORTS FROM COMMITTEES.

Mr. COWGILL, from the Committee on Fees and Salaries, reported back Mr. Smith's bill [H. 45] to amend the act fixing the per diem of members and officers, with the recommendation that it be indefinitely postponed.

The report was concurred in.

Mr. BROADUS, from the same Committee, reported back Mr. North's bill [H. 78], to amend the act providing for the erection of a State Prison north of the National road, with a recommendation that it be indefinitely postponed.

The report was concurred in.

Mr. KING, from the Railroad Committee, returned Mr. Cowgill's bill [H. R. 14] to provide for the crossings of railroads, recommending its passage.

It was ordered to the engrossment.

COMMON SCHOOLS.

Mr. COFFMAN, from the Committee on County and Township Business, returned Mr. Woollen's bill [H. R. 10] to provide for the issue and sale of bonds to raise money by the civil township for school house purposes, recommending its indefinite postponement.

Mr. MELLETT moved that the bill be referred to the Committee on Education.

The SPEAKER. The motion to indefinitely postpone has the precedence.

Mr. WOOLLEN. The bill is just this: The cities and towns are authorized by law to issue bonds and borrow money for the purpose of building school houses, purchasing school grounds, etc., and some of them have gone beyond what they ought to have done, and abused their privileges; and this bill is simply to enable the townships to do what the towns and cities already have the right to do. I do not know why our fellow citizens in the

townships in the country should not have the right to do what we do in the cities and towns. I know of many townships where they desire to do so. This simply provides that they may issue bonds to build school houses and pay for them. I do not know why one class of our people should be deprived of priviliges accorded to other classes. I would rather, it seems to me (for it would be more safe generally), put this power into the hands of the farmers than into the hands of the people of the cities and towns.

Mr. GIVAN. This bill should not be summarily disposed of. The gentleman's explanation of it commends it to my respect. I hope the report will not be concurred in, and that it will go to the Committee on Education.

Mr. MELLETT concurred heartily in the remarks of Mr. Woollen, and indicated a motion to lay the report on the table.

Mr. SHIRLEY illustrated the working of the bill by mapping a township six miles square, and a little flock of a town in one corner erecting what they call a graded school with the township credit, whilst those living a mile and a half away would get no benefit from it. The proposition was to build school houses, but the object was to build up the towns. It would work great hardships. The best way was to provide for good district school-houses and schools so that the farmers can provide education for their children at home. And if the cities and towns want school houses let them have them at their own cost. In my town, after we had taxed our people in the country to build our school house, we paid them back their money—bought the school house.

Mr. BILLINGSLY was for the printing and reference of the bill. Many country school houses needed rebuilding, and they should be permanent structures.

Mr. CLAYPOOL. The committee came to the conclusion that the people of the districts ought to build to suit themselves. With the proposed power in the hands of the Trustees they would be apt to go too far, and we found that the bill authorizes them to borrow to the extent of 10 per cent. That would mortgage too much. I am satisfied that if the bill were left to my constituents they would object to it. I would be perfectly willing that the money should be raised under the present school law; and, if they desired it, they could raise the amount in a very short time.

Mr. WOOLLEN. I provide in the bill that before the Trustees shall issue the bonds, they shall go before the County Commissioners and get the authority to do so.

Mr. MELLETT. The objection of the gentlemen from Morgan and Johnson can be raised on any public improvement whatever. It will not do to take such considerations in reference to public education. I know there are difficulties about school houses—every man wants a school house at his own door. But this should not justify us in saying there shall not be a graded school in every township. It is better to have one if it is in the corner. The difficulty would not be increased by the passage of this bill. But now, if the trustee would build well, he must do ft by an evasion of the law. I would prefer he might have the power to build without evasions, and I think these evasions evince the wisdom of this proposition. This bill places it in the power of the trustee to provide suitable school houses in every district—overcoming the very objection which the gentleman raises. So far as the ten per cent. is concerned, I think that ought to be reduced.

Mr. RENO thought it better to increase the common school fund.

On motion of Mr. MELLETT, the report of the committee was laid on the table.

Mr. BILLINGSLEY moved to refer the bill to the Committee on Education.

Mr. WOOLLEN proposed to add these instructions: Provided, that before any bond shall be issued under this act, it shall be the duty of the board of county commissioners to procure the petition of two-thirds of the freeholders of the township; and that the committee strike out ten per cent. on the taxables and insert five per cent.

It was so ordered by consent, and then the bill was referred to the Committee on Education.

REPORTS FROM COMMITTEES.

Mr. OGDEN, from the Committee on Corporations, returned Mr. King's bill [H. R. 39] to amend the second section of the act of February 12, 1855, concerning voluntary associations, with amendments by way of substitute, numbered [H. R. 163] for an act to amend the seventh section of the act of February, 1867, amenadtory of the act of 1855, concerning voluntary associations.

The report was concurred in, the original bill laid on the table, and the substitute passed to the secon reading.

OHIO RIVER.

Mr. LENFESTY, from the Committee on Federal Relations, returned the joint resolution in relation to the appropriation by

Congress of two millions of dollars for surveys, etc., for improvement of navigation of the Ohio river, recommending its passage.

The resolution was adopted on the part of the House of Representatives: yeas, 78; nays, 14.

REPORTS FROM COMMITTEES.

Mr. WYNN returned the Senate joint resolution in relation to the improvement of the Ohio and Wabash rivers, recommending it be indefinitely postponed.

The report was concurred in.

Mr. LENFESTY returned Mr. Kimball's bill [H. R. 6] creating the Indiana Centenial Association, with amendmnts as to the membership and officers, recommending its passage.

The amendments were adopted, and the bill ordered to be engrossed.

Mr. REEVES, from the Committee on Roads and Highways, returned Mr. Glasgow's bill [H. R. 79] to amend the supervisors' act of March 1865, recommending its indefinite postponement.

The report was concurred in.

Mr. REEVES, from the Committee on Roads, returned Mr. Ellsworth's supervisors' act amendment bill [H. R. 59] recommending its passage.

It was ordered to be engrossed.

Mr. WOLFLEN, from the Committee on Statistics and Emigration, reported back Mr. Lenfesty's bill 88, to provide for the registration of births, marriages and deaths, with sundry amendments.

The amendments were adopted, and the bill was ordered to be engrossed.

Mr. GREGORY, from the special committee thereon, returned his bill [H. R. 134] to provide the times of holding Circuit Court, and the length of the terms thereof, in the counties comprising the Twelfth Sudicial Circuit, recommending its passage.

It was finally passed—yeas 89, nays 0.

Mr. MELLETT, from the Committee on Education, returned Mr. Walker's bill [H. R. 155] to provide a general system for common schools of cities, and recommending its passage.

It was ordered to be engrossed.

On motion of Mr. BRANHAM the House proceeded to the consideration of the orders of the day—business on the Speaker's table.

STATE LIABILITY—OPPINION OF THE ATTORNEY GENERAL.

The SPEAKER laid before the House a communication from the Attorney General, transmitting his opinion upon the points referred to in Mr. Gregory's resolution of inquiry touching the State's liability for the payment of the unsurrendered canal bonds. The Attorney General is of the opinion that the State is clearly liable for the payment of these bonds, that the payment of Garrett's judgment will not increase her liability as to the other unsurrendered bonds, for the reason that the liability is already absolute, and that the State will become liable for the payment of the canal certificates should she permit the canal, its tolls and revenues to be sold in satisfaction of the Garrett judgment.

On the motion of Mr. GREGORY, the communication was laid upon the table and ordered to be printed.

GOVERNOR'S HOUSE RENT.

Mr. WOOLLEN, from the Judiciary Committee, to whom had been referred the resolution introduced by Mr. Woollen, directing inquiry as to what legislation is necessary to enable the Governor to avail himself of the benefits of the act of February 25, 1865, granting an allowance in lieu of house rent, reported a bill [H. R. 164] providing for compensation at the rate of $5,000 per annum, from January 1, 1872, in lieu of house rent.

The bill was passed to its second reading.

THE GOVERNOR'S SALARY.

Mr. KIMBALL introduced a bill [H. R. 165] fixing the salary of the Governor at $8,000 per annum, and requiring him to provide his own house, the bill to take effect at the beginning of the term of the Governor elect.

It was passed to second reading.

INDIANAPOLIS POST OFFICE.

The bill [S. 56] granting consent of the State of Indiana to the purchase by the United States of certain grounds, not exceeding one acre, for the purpose of the erection of public buildings—a post office at Indianapolis was taken up, and under a suspension of the rules and Constitutional restriction, passed the House without amendment—yeas, 92; nays, 0.

The Senate concurrent resolution providing for the printing of the report of the Deaf and Dumb Institute was taken up and passed.

Mr. MILLER submitted a resolution, which was adopted, directing chairmen of committees to report the number of clerks, etc., employed by them, the number of hours per day that they are engaged, and an outline of their duties.

Mr. BILLINGSLEY renewed his request that the special committee on the Carroll county case investigation be permitted to sit during the sessions of the House, and it was so ordered.

Mr. CAUTHORN introduced a bill [H. R. 167] for an act to preserve the original manuscripts of the journals of the Senate and House.

It was referred to the Committee on the Judiciary.

Mr. WALKER, a bill [H. R. 168] to amend section 11 of the act to establish the Court of Common Pleas (for concurrent jurisdiction with the Circuit Courts and the Justices of the Peace.)

It was referred to the Committee on the Judiciary.

Mr. BAXTER introduced a joint resolution confirming the site as already selected of the Indiana Reformatory Institute for women and girls.

The rules were suspended and the joint resolution passed.

The House then on motion of Mr. HELLER, took a recess till two o'clock, p. m.

AFTERNOON SESSION.

The SPEAKER resumed the chair at two o'clock p. m., and pursued the orders of the day.

The bill [S. 8] to provide courts in the Twenty-fifth Common Pleas District was ordered to the third reading.

C. & O. R. R. TERMINUS AT MADISON.

Mr. Branham's border counties railroad aid bill [H. R. 70] was taken up and considered on the third reading.

Mr. BRANHAM. There are probably but few counties in the State that are interested in the bill before the House, except the county of Jefferson. There is a railroad now being constructed, (the Cumberland and Ohio railroad) the northern terminus of which is at a point near Madison, which runs to Chattanooga, the railroad center of the South. The object of this bill is to enable the people of Madison to make this terminus opposite to them on the Ohio River. The advantage to Madison will be that it will place that city 100 miles nearer to Chattanooga. And I can say that our factories are sometimes almost suspended for want of shipping facilities. Our town is a manufacturing town, and there will be an outlet for us on this road. They have made an arrangement with that railroad company that if they raise a certain amount of aid they will make the terminus of their road opposite. If it is just that the people should tax themselves, there can be no objection to this bill. The bill has no other object; and if our people see proper to tax themselves, I do not think the balance of the State ought to object to it.

The bill was finally passed the House of Representatives—yeas 82, nays 1.

Mr. Walker's bill [H. R. 114] to amend the first section of the flouring mill race act of March 2, 1863, was taken up on the third reading.

Mr. WALKER. As the law now stands this right can not be given to a party unless he is desirous of erecting a mill. This bill, in addition, says he shall have the right where a mill is already erected.

The bill was finally passed the House of Representatives—yeas 81, nays 6.

Mr. WILSON of Ripley's bill [H. R. 118] making the parties competent witnesses in certain cases involving contracts assigned to decedents, was taken up, and failed on the final reading—yeas 47, nays 38.

CRIMINAL PRACTICE.

Mr. JOHNSON'S bill [H. R. 35] to amend section 90 of the criminal practice act—(to give the defendant's the right to testify)—was taken up on the third reading.

Mr. JOHNSON. This bill proposes to make an amendment to the criminal code so as to give the defendant in criminal actions the right to testify in his own behalf—or rather at his own request. I will say for information that this provision is copied almost verbatim from the N. Y. statutes. It accords to the defendant this right, so that the State can.t compel him to testify against himself; and so that he shall not be compelled to testify in his own behalf but he may if he chooses; and so, that if he chooses not to testify, the fact shall not be considered as a circumstance against him, and counsel shall not comment on his refusal or neglect to testify. It has not been long since parties in criminal actions were competent to testify. Since, however, the door has been opened, and parties in interest have been permitted to testify, it has been found that it is beneficial. The jury or the court trying the case naturally desire all information they can get in regard to the facts. In ordinary transactions when we want information of a fact, we will go to the person who was present and ask him. And the Legislatures have found out that you can get the truth best from the person who knows most about it. Therefore parties in civil cases are allowed to testify against each other. That was considered an innovation, but it has proved a step taken in the direction of liberality and broader views; and it has been going on till in nearly all the States persons charged with crime are now permitted to testify in their own behalf. The hardship

that rests upon him in having his lips sealed may be exemplified in this way, for instance: Last night a horse was stolen from A, and to-day the horse is found in the possession of another person. Now the law is this: If A proves that he lost his horse and found it in the possession of the defendant, the burden of proof rests on the defendant. Now it might be that some thief stole the horse and sold it to the defendant, and so he goes to the penitentiary. I think that I know of one man who went to the penitentiary, and who might have escaped if he had been allowed to testify in his own behalf. I know it will be said that this rule will facilitate the escape of guilty men. I think not. The jury, if they choose not to believe the defendant, can reject his testimony. Standing in the relation of defendant, accused of crime, the jury will scan his story closely. If the defendant has interests, they ought to be regarded, and, if guilty, he will generally be convicted on the cross-examinations. There is the celebrated Clem case, wherein Nancy E. Clem, the defendant, was twice convicted. But every one knows that over that case there still hangs the secret of the murder; and that there is but one person that can dispel that secret—and that is the woman herself. This bill is to be followed by another. Originally, this bill had two parts: one to allow the defendant to testify, and the other to require the State to close the argument These two propositions are now separated. In this bill [H. R. 35] it is proposed to give the defendant the right to testify, and in the other, the bill [H. R. 127], it is proposed that the State shall close the argument. In the one case, you open the way of escape for the innocent man; in the other, you shut off the means of escape for the guilty.

The bill was finally passed the House of Representatives—yeas 61, nays 26.

THE CALUMET DAM.

A message was received from the Senate announcing the passage of a concurrent resolution reciting the difficulties encountered in the attempt to procure the removal of the Calumet dam, and the great damage done to citizens of Lake and Porter counties by reason of the overflow of their lands consequent upon the existence of said dam, and directing the Attorney General to proceed at once to Chicago, or such other place as may be necessary to ascertain the exact ground upon which the injunction restraining the removal of the dam was procured, and take such steps as may be necessary to secure the removal of the nuisance.

A message was also received from the Senate announcing the passage by that body of House Bill No. 22, providing for the completion of unfinished business of one session by the next succeeding regular or special session.

The concurrent resolution of the Senate in relation to the Calumet dam, was taken up and concurred in.

CRIMINAL PRACTICE—CLOSING ARGUMENT.

The SPEAKER announced the consideration on the third reading of Mr. Johnson's bill [H. R. 137] to amend section 162 of the criminal practice and procedure act of June 17, 1852.

Mr. JOHNSON. I have said almost all that I care to on this bill. It is simply a verbatim copy of the provision in regard to the opening and closing arguments in civil cases. It has long been a cardinal rule in the discussion of all questions, both in legislative bodies and before the courts, that the side of the question upon whom rests the burden of the issue shall have the opening and the closing of the argument, It has always been so at common law. It is so in criminal as well as in civil practice at common law, It is so in every civilized country in the world—it is so in every State of the Union except the State of Indiana. Indiana is the only State in the Union where the negative side is compelled to close the argument; and I think this rule in our practice has been recently denounced by one of the Judges as a barbarous rule. Now, the defendant has safeguards enough around him. In the first place he is presumed to be innocent till the contrary is proved. In the next place, the jury must be convinced beyond a reasonable doubt of his guilt. Now, not ten minutes since, the House has voted for a bill giving the defendant the right to testify in his own behalf. And with all these things in the defendant's favor, shall we continue to make this State an exception to the civilized world? In the United States Courts the government has the opening and closing argument—and in every State in the Union except Indiana. I might say that this rule in our State was gotten up originally by the criminal lawyers in behalf of what they know gives them a successful practice. We have just given the right to testify to the defendant; that cuts off all probability of the penitentiary for an innocent man. Now, let us pass this bill, and close the way of escape for the guilty.

Mr. BUSKIRK. I desire to say a word before this bill passes. I was in favor of the last bill we passed; but I am earnestly

opposed to this; and I do not admit the argument in favor of this bill, because the other has or may become the law. The only view that has been taken of this important innovation on our system of practice is this: that the party closing the argument has the advantage. Now, the question is, where ought the advantage to be given? Ought it to be with the State or with the person accused? I believe that the theory of our criminal law accords the principle that all presumptions are to be in favor of the criminal. This is sound in theory and safe in practice. I believe that it is safer that ninety-nine of the guilty should escape than that one innocent person should be punished. The gentleman says that in Indiana alone the defendant has the closing argument. I believe that our Constitutional Convention of 1850-51, did a great many things of which they may be justly proud, and I believe that this provision is one of the wisest things which they recordeed to their honor. By the common law the State has the closing argument. But we may find many other unjust things in the common law of England; as that the defendant is not entitled to counsel. These things are eminently unjust. I believe that if we look over the criminal annals of Indiana, and compare them with those of other States, we will not find anything in which she will appear to any disadvantage. The right of the defendant to testify is not in point here. This is simply a question as to who shall have the closing argument; and if there is any advantage in this, I believe in giving it to the criminal.

Mr. WOOLLEN. I am only going to say a few words. It is time as the gentleman says, that the common law has grown up in this country, and we have taken what we favored—sometimes at the expense of the many. But we know that laws are made slowly and singly, for the purpose of curing some evil. But the intention of the bill is this: It is intended for the more effectual enforcement of the criminal laws of the State. They have hardly ever been rigorously enforced. We have been for sometime going back from the enforcement of the criminal laws. Now, the evil to be remedied is to prevent the escape of the criminal - not to prevent the conviction of the innocent man. This Legislature has not been called upon to legislate for the purpose of saving the innocent from the penitentiary, but to bring the guilty to punishment. And, if gentlemen here will go home and inquire what has been most talked about by the people, they will find that it is this very thing—that our criminal laws have not been sufficiently enforced. Now the eulogy which the gentleman passed upon the Constitutional Convention of 1851 might be well enough deserved by that body; but I conceive that his mention of it is but moonshine, because prior to 1850 there was no complaint about the criminal laws: but the evil complained of has grown up since the law we are now seeking to repeal was placed on the statute books. Again, if the gentleman will go back prior to the Convention of 1850, he will find no beech trees ornamented with criminals. The beech tree came into favor as a part of the law we are seeking to repeal. It was since the State stepped back from the right to the closing argument that it has come to pass that justice must be enforced by vigilance committees. I say this law stands in the way of the administration of justice. Sympathy always goes out in favor of the criminal. And hence, if you permit the defendants' counsel to close—especially since we have such prosecuting attorneys as are commonly elected—the State stands but little chance in the case, and unless we prevent the stronger counsel from closing the argument on the part of the accused, no jury can convict. Now, let us make the law logical. Let us give the close of pleadings to the party that has the burden of proof, for he must make out the case beyond a doubt. Let us reserve to the State the right of the sovereign to close and say through her attorney the last word in the case.

Mr. WALKER. I think the law as it now stands is obviously indefensible by any gentleman in the State of Indiana, and that it will be attempted by none outside of the General Assembly, except, it may be, by some of our able criminal lawyers. I believe that it is the united voice of the people of Indiana that the defendant should be denied the closing argument in criminal cases. I believe that nothing can make that just which is unjust. I invite every gentleman to vote against the lawyers. I concur with the gentleman [Mr. Woollen] that nothing has contributed so much to encourage mob law in the State as this rule which we are seeking to repeal. Our criminal laws are loosely made—made at the bidding of a maudling liberality. The salaries paid to the prosecutors are so low that the able lawyer will not accept the office, and the result is that we have young men for prosecutors. Now comes to the assistance of the defendant his counsel—the ablest lawyers of the State—and do not lose sight of the fact that the defendant must

be proved guilty beyond a reasonable doubt—that no doubt must linger in the minds of the jury, and the jury must judge of the law and the facts, and still the able counsel have the closing word. We must not forget the ability of the defendant's counsel—men who have looked into the faces of hundreds of jurymen—they have proficiency in determining the faces of men, and the last argument of counsel has acquitted three-fourths of the criminals on trial in Indiana for the last ten years. It is so. There is no doubt of the fact, that more depends on the closing argument than on everything else for the criminal's acquittal. Now I can set up no claim for the wisdom of Indiana legislation above that of the civilized world. And I will repeat that this act for a rule in pleadings had its birth in the mendacity of criminal lawyers, and in an unguarded moment it was crystalized into law. This is not an aggressive step. It invites the dust of the old shelves of the law to settle down again on our statute books. I believe that this act will pass without a dissenting voice; and that it will receive the sanction of the law-abiding people of Indiana.

Mr. ANDERSON. If it is to be set down as a fact that juries are almost universally influenced by the last argument, I can't see how a just act should award the last argument to the criminal. I am not aware of the fact that the State of Indiana has gained any notoriety for looseness in her criminal trials; neither do I think she lingers behind other States in regard to a fair enforcement of the administration of justice. And although the last argument may have more influence on the jury, still I think justice should accord the close to the criminal. If the reasoning of gentlemen is good, then to give the last argument to the criminal is an important advantage; and therefore I shall certainly feel it to be my duty to vote against this bill.

Mr. WALKER. I have always been in favor of giving the criminal a fair trial; but, while I believe this, I believe that we should also be just to the people of the State. This innovation of 1850 has proved to be unwise; and I trust we will pass this bill. We have given the defendant the right to testify in his own case; and now if we should defeat this bill, we will leave the matter in an awkward position.

Mr. BUSKIRK. It was said by the gentleman last on the floor, that the mendacious propose opposition to this bill. My opposition to the bill is not so founded; but it is founded in what I conceive to be unjust in the bill itself. I have in my mind a criminal case now pending in the Circuit Court of my own county. A man by the name of Davis is charged with murder. I am employed to assist in the prosecution of the case. There is also employed a certain lawyer in Evansville, who ranks, perhaps, foremost amongst the lawyers of that part of the State, and in that case I believe, if the State have the closing argument, it being a case made up on circumstantial evidence, and where the legal skill will be balanced about equally, the defendant will stand a chance to be found guilty, whether in fact he is guilty or not. I understand that the gentleman from Wayne predicates his argument on the fact that in our criminal cases the State is always represented by poor lawyers, and the defendant by able ones. Now I say that argument does not lie in the mouth of the State. But that is the main argument of the gentleman, together with this that upon the closing argument depends, for the most part, the verdict in the case. Now, I agree with the gentleman from Cass (Mr. Anderson), if that proposition is true, that upon the closing argument depends the result, then the closing argument ought to be with the defendant. If there is any difference, any advantage in the case, it should be in favor of the defendant. The gentleman from Johnson (Mr. Woollen) says if the bill pass we shall have no more mob law. That is a rash assertion, to say the least; because mob law has existed as long as the civil law.

Mr. JOHNSON. I have the affirmative and ought to have the close. I have a word in answer to the gentleman from Gibson (Mr. Buskirk). If my friend from Gibson is afraid that the defendant he spoke of will be convicted if the State has the close, he certainly ought to resign his employment in the case. [Laughter.] But, if he is convinced that the defendant is innocent, I will venture the assertion that, with all his eloquence, his closing speech will not convict him. But then, after the argument is all closed the court instructs the jury; and in almost every criminal case, the law is so favorable to the defendant, that the instructions of the court amount to an argument for the criminal. The law is so lenient, and the judge is so careful and merciful, that if injustice has been done by the counsel for the State, it will be corrected in the instructions of any upright court. The criminal will be in no danger; because the law makes the charge of the

court almost an argument for the criminal. While the gentleman from Gibson stands here in favor of the criminal, I stand up in favor of nobler clients. I stand in favor of the protection of the State and of society. Society is now in more jeopardy than any man can be. And now, in the present stage of our public morals—since the gibbet and lynching post has come into office to take the place of justice—I am inclined to take the side of society, and erect a barrier against crime; and I am prepared to say that it may, after all, be better for society that one innocent man should suffer, than that ninety-nine guilty should escape.

The bill was finally passed the House of Representatives; yeas, 75; nays, 15.

NEW PROPOSITIONS.

The SPEAKER resumed the call of the House by counties and districts for new propositions.

Mr. BOWSER submitted a resolution directing the Committee on Claims to inquire what sum, if any, is due Robert S. Taylor growing out of the contested case of Walters vs. Taylor.

It was adopted.

Mr. WESNER introduced a bill [H. R. 169] to amend the act providing for the settlement of decedent estates.

It was referred to the Committee on the Judiciary.

Mr. BRETT introduced a bill [H. R. 170] to amend the act to revise, abridge and simplify the rules of practice, etc., in civil cases.

It was referred to the Committee on the Judiciary.

Mr. GIVEN introduced a bill [H. R. 171] prescribing the manner of selecting petit jurors for the Circuit and Common Pleas Courts.

It was referred to the Committee on the Judiciary.

Mr. BROADUS introduced a bill [H. R. 172] fixing the time for holding Courts of Common Pleas in the Sixth Judicial District.

It was referred to a special committee consisting of the members from that District.

Mr. WILLARD introduced a bill [H. R. 173] to prevent empyricism, to elevate the standard of the medical profession, provide a Board of Medical Examiners, etc.

It was referred to the Committee on Rights and Privileges.

Mr. BAKER introduced a bill [H. R. 174] to amend the act for the incorporation of cities.

It was referred to the Committee on Cities and Towns.

Mr. ISENHOWER introduced a bill [H. R. 175] in relation to mortgages on real estate and the recording of the same.

It was referred to the Judiciary Committee.

Petitions on the subject of a temperance law were presented by Messrs. FURNAS and HEDRICK.

Mr. BRANHAM introduced a bill [H. 176] to prevent extortionate charges for the carrying of freight by railroad companies or other common carriers, and unjust discriminations in regard to the same.

It was referred to the Committee on the Judiciary.

Mr. WILSON, of Ripley, introduced a bill [H. R. 177] fixing the time of holding courts in the First Judicial Circuit.

It was referred to the Committee on Organization of Courts.

Mr. WILSON also introduced a bill [H. H. 178] to amend the practice act.

It was referred to the Committee on the Judiciary.

Mr. WILSON introduced a bill [H. R. 179] to amend the practice act.

It was referred to the committee on the Judiciary.

Mr. WOOD introduced a bill [H. R. 180] to abolish the grand jury system, except in certain cases.

It was referred to the Committee on Organization of Courts.

Mr. TEETER introduced a joint resolution instructing our Senators and requesting our Representatives to use all honorable means to secure the passage by Congress of an appropriation for the improvement of the harbor of Michigan City.

The joint resolution was, by consent, considered as engrossed and put upon its passage. It was adopted by yeas 73, nays 1.

THE FUNDED DEBT.

Mr. KIMBALL introduced a bill [H. R. 181] in relation to the funded debt of the State. [It provides for the discontinuance of the office of State Agent after the 10th of February, 1873, and the abolition of the Sinking Fund Commission.]

It was referred to the Committee on Ways and Means.

Mr. GLAZEBROOK introduced a bill

[H. R. 182] declaring the procuring of abortion or miscarriage to be a felony or murder, as the case may be, &c.

It was referred to the Committee on the Judiciary.

Mr. HARDESTY introduced a bill [H. R. 183] to divide the State into thirteen Congressional Districts.

It was referred to the Committee on Elections.

The House then adjourned till to-morrow morning, nine o'clock.

THE

BREVIER LEGISLATIVE REPORTS.

THIRTEENTH VOLUME.

INDIANA LEGISLATURE.

IN SENATE.

FRIDAY, December 6, 1872.

The Senate met at 10 o'clock, President Friedley in the Chair.

The reading of the Secretary's minutes of yesterday's proceedings was dispensed with.

PETITIONS.

Mr. BIRD presented a petition from about 200 citizens and tax-payers of Allen county, interested in the maintainance of the Wabash and Erie Canal, and praying that it may not be abandoned, but that a law may be passed authorizing the Commissioners of counties through which the canal passes, to make appropriations for repairs, etc. The signers were principally business men.

By Mr. HUBBARD, from citizens of St. Joseph county, praying for the repeal of the drainage laws.

These petitions were referred to the Appropriate Committees.

REPORTS FROM COMMITTEES.

Mr. DWIGGINS, from the Committeee on Corporations returned the bill [S. 56] to amend sections 22 and 57 of the town incorporation act of June 11, 1852, and the amending act of March 2, 1855, recommending its passage with sundry amendments. The bill authorizes the collection of license fees by towns for the keeping of billiard tables and the sale of intoxicating liquors.

The report was concurred in.

Mr. HUBBARD, from the same committee, returned the levee and drain bill [S. 43] recommending that it lie on the table.

The report was concurred in.

Also the bill [S. 73] with amendments. The bill proposes to make town marshals elective by the town trustees instead of at a general election.

The report was concurred in.

Mr. THOMPSON, from the Committee on Benevolent Institutions, returned the bill [S. 97] appropriating $20,000 for an experimental school for feeble minded children, reporting it inexpedient at this time, and recommending that the bill lie on the table.

Mr. COLLETT moved to recommit it, with instructions to report the bill back with a recommendation that a small amount of money $4,000 or $5,000 be appropriated to start an institution of this kind.

The motion was agreed to.

Mr. STEELE, from the Committee on the Organization of Courts, recommending the passage of the bill [S. 77] to amend section 476 of the general practice act.

The report was concurred in.

WABASH AND ERIE CANAL.

The special order for this hour was taken up, being Mr. Steele's bill [S. 85] to protect the Wabash and Erie Canal, and the tolls and revenues thereof, from sale or sequestration for the satisfaction of the lien of certain bonds or stocks of the State, issued prior to the transfer of said canal to the present Board of Trustees thereof, and to provide for the satisfaction of said bonds or stocks, on its second reading.

Mr. BROWN moved to amend by striking out from the first section of the bill the words: "Protect said canal by taking up and redeeming the bonds," and insert in lieu the words, "take up and redeem said bonds," so that it shall read:

SECTION 1. *Be it enacted by the General Assembly of the State of Indiana*, That the Governor, Attorney General and Secretary of State and Treasurer of State, or a majority of them, be, and they are hereby authorized and empowered to take up and redeem said bonds with the coupons thereto belonging, mentioned in or contemplated by the preamble to this act and for that purpose a sum of money sufficient to accomplish the object, is hereby appropriated, etc.

Mr. BROWN said if the bill shall pass it should not recognize any liabilty on the part of the State to protect the canal. If the bonds are to be paid at all, it should be as though no suit had been commenced, and as though no person had made a demand for pay, but as though the State had come forward and paid them of her own volition. There should be no section in the bill permitting the State to be brought into Court at all. A State should not go into court to put her rights in jeopardy, but for the purpose only of asserting her rights.

Mr. STEELE accepted the amendment and it was agreed to.

Mr. BROWN moved to amend by striking out the fourth section of the bill, which reads as follows:

SECTION 4. If any question should arise as to the validity of any bond contemplated by this act, or as to the amount due on any of the bonds or coupons contemplated by this act, or any other point or question which is, or may be involved in said suit now pending in said Cass Circuit Court, which, in the judgment of the Attorney General ought to be litigated, that officer may, with the advice and consent of the Governor, Secretary of State and Treasurer of State, or a majority of them, cause the State to be made a party to said action now pending as aforesaid, for the sole purpose of asserting the right of the State to redeem said canal and its appurtenances from the operation of the lien of said bonds and coupons, by paying the amount which may be legally and justly due thereon, and the State after being made a party to said action, shall have the right to make any defence which the trustees of said canal might or would do; but under no circumstances shall any court, because of the State having become a party to said action, have or assume jurisdiction to render any judgment against the State for any amount, or under any pretence whatever.

The motion was agreed to.

Mr. BROWN moved to further amend by striking out the fifth and sixth sections of the bill, which read as follows:

SECTION 5. The State after having been made a party to said suit, shall have the same right of appeal that the trustees of said canal may or might exercise, and if the Attorney General shall, with the advice and consent of the Governor, Secretary of State and Treasurer of State, or a majority of them, determine to appeal from any judgment that may be rendered in said cause, then it shall be the duty of the trustees of said canal to join in such appeal, and the Governor, Attorney General, Secretary of State and Treasurer of State shall procure the necessary sureties to become bound, in the proper appeal bond, such bond to be executed by the Governor for and on behalf of the State, and the State hereby pledges herself to indemnify and save harmless those who may become sureties in such appeal bond, from all loss, costs or trouble by reason of such suretyship.

SECTION 6. If from any cause the State should fail in being admitted to become a party to said action to the purposes aforesaid, it shall be lawful for the Attorney General, with the advice and consent of the officers aforesaid, to file a new complaint and commence a new action in said Cass Circuit Court for the purpose of redeeming said canal and its appurtenances from the operation and effect of said lien by paying such sum or sums of money as may be legally payable on the bonds and coupons which constitute the lien, making the said Garrett and other holders of said bonds defendants to said action, and making such other defendants thereto as the Attorney General may deem necessary and proper, and the Attorney General in such new action shall apply to the court for such injunctions and restraining orders against said John W. Garrett and his co-plaintiffs as may be necessary to restrain and enjoin proceedings in the said action now pending as aforesaid, until the rights of the State can be fully and fairly adjudicated.

This motion to strike out was also agreed to.

Mr. BROWN moved to strike out the preamble which referred to the Garrett suit, and provided that the State should be made a party to the suit, and for an appeal of the case.

The motion was agreed to.

Mr. BROWN then moved to substitute therefor the following:

WHEREAS, There are still outstanding 191 of the old bonds or certificates of the State stock issued by and under the authority of the laws of this State prior to the year 1841, upon some of which no interest has been paid since January, 1841, and upon others of which the interest has been settled up to July, 1842. Therefore."

Mr. STEELE consenting, it was agreed to by the Senate.

Mr. HARNEY said, in 1860, when a member of the Legislature, he examined the character of the act under which the arrangements were made with the State's creditors. The General Government held certain old bonds of the State in trust for certain Indian tribes, and refused to pay to the State the three per cent. bonds due us until we paid up these bonds the Government held in trust. It was the duty of the State to satisfy the General Government, and the arrangement made was just and proper as the General Government stood in a different position from our other creditors. It had been a beneficiary to the extent of donating the bonds that stood almost as the only basis of that great improvement, and it looked hard that we should refuse to pay the interest on the bonds it held only in trust for others, and the question has since continually recurred as to whether the arrangement made with the Federal Government was just, that it was based on sound and correct principles.

The bonds in dispute contain these words: "For the payment of which the faith of the State is irrevocably pledged." This is the language of sovereignty, the language of treaties, and, by implication, the language of every statute. The State, in her sovereign capacity as the fountain of law and justice, must be the only and final arbiter of what her plighted faith demands of her. This power she may not delegate nor commit so sacred and vital a trust to any tribunal less responsible and competent to decide than the State itself, speaking through its constituted organs to express its sovereign will.

As between parties subject to its laws, the State, in its constitution, says it shall make no law impairing the obligation of contracts, but as between itself and another party no deliberate act of the State can be construed as violating a contract, because the State itself is the arbiter and so declares it in the contract, and therefore her ruling must be taken as conclusive as that of any court to which the law gives the power of ultimately deciding questions submitted to it. Any other construction would put the State in the power of a creature of its own construction, and would give the courts, its creatures, power to decide upon its duties and its franchises, or treat it like any corporation over which the court held control.

But while we claim for the State these high prerogatives, without which it could not exist as a State, we admit that she is amenable to that code of public law recognized by all States and sovereignties in the civilized world, binding upon the State as upon the conscience of individuals, and this is the law which the State takes notice of when deciding between herself and individuals.

Individuals dealing with a State must know these facts, for they are written in the bond; and when the State decides that she has complied with her plighted faith, they must accept her decision as final and conclusive.

The question then is, has the State in good conscience discharged her obligation to her creditors, or the private parties contracting with her in the matter of these bonds?

We must first premise that the contract must be taken within the rules of interpretation known and accepted at the time it was made, and not as being absolute according to the letter. Mankind has long since decided that all the duties and obligations which the party was known to be under at the time he secured the confidence of his creditor must be taken into the account, as the State could not destroy itself or tax its subjects beyond their ability to pay the demands of a creditor.

Its only resources are known to be taxation—and that taxation is limited by the ability of the subject to pay in all good conscience.

The same rule holds good with individuals. The right of food and clothing for himself and family, and some means to educate his children, is paramount to the claims of any creditors, and a Shylock can no longer enforce his bond for the pound of flesh.

At the time those bonds of the State were given the surroundings were peculiar. The State was young and over sanguine. It was at a time of great expansion in money affairs. Money was plenty and capitalists were eager to invest in public enterprises that promised any degree of security. Loans were taken with a reckless prodigality, and the means were squandered in unproductive improvement. This speculative period, characterized by rash borrowing, and still more reckless loanings, was succeeded by the darkest period in our financial history. Money was not to be had. The business of the country was largely carried on by barter and exchange. All the schemes and speculations and corporations made to carry them out failed. Collection of debts was restricted or suspended, and stay laws, valuation and exemption laws passed. These attest the terrible stringency in money affairs. Then the bankrupt law was passed by Congress, which swept away a large amount of indebtedness at once, and reduced the ability of their creditors to pay.

There was nothing feigned in the inability of the State to pay interest on her debt. She failed from sheer inability. The necessary taxes, when placed on the duplicate, could not be collected. Especially in the Western States commerce and manufactures were utterly paralyzed. The financial seas were stripped of ships, and their shores were strewn with wrecks.

Gentlemen whose memories do not go so far back as that period can have some faint conception of the state of affairs by drawing upon their imagination and figuring what would be the result, suppose that within a few months the value of our currency should depreciate and it should die on our hands, and gold should be demanded in its place, and there were no mines in our borders from which we could dig the precious metal—suppose all our railroads were destroyed and the telegraph ceased to work. With all of these supposed disasters we can then only have

an approximate idea of the condition of affairs in this State from 1841 to 1847. The State was totally unable to pay, and her creditors knew it.

We can well sympatize with the condition of our creditors, but they were no worse off than others: and the result proved they were in a far better condition than the great mass of creditors in the land, the most of whom lost all and had no remedy. It partook much of the character of a revolution, and after the fiercest of the storm was over, by common consent there was a general new adjustment of debts, formed on the basis of affairs then existing, that all appreciated and acknowledged. The State was first challenged by her creditors to make a new arrangement with them. Although the interest had not been paid for years, she had not been accused of violating her plighted faith. She was unable to pay, and there seemed but an indefinite prospect that she would pay the accumulating interest that was compounding upon her.

The State responded and by law made a new arrangement, drawn up by her creditors themselves and adverse to her, and the bill bears to-day the name of the agent of her creditors. "The Butler Bill," by enactment, became a law upon our statute book—as much so as the law authorizing the creation of the debt. It was made to redeem the plighted faith of the State in the original bond, sealed and doubly authenticated by common consent at the time, and it has been defended by many of the best and purest men from then until now.

But it is said that the Butler Bill was a new contract setting aside the old, and therefore parties to the old not being present and assenting were not bound by the new. This would have been the case with individuals, but in this case one party is a State—her official acts are public, and all parties affected must take notice without special service. The bondholder, situated like Mr. Garrett, must have known of the proposed sale of the canal. They stood by and without protest suffered the State to sell the canal, making provision for what equitable interest they had in the canal by virtue of any lien they had. Their own silence to a public act would imply a binding consent. But suppose they had protested against the passage of the bill, or had no legal knowledge of any action in the premises, they only occupied the position of some minority under the operation of almost every law passed. The State is under no higher obligation to her creditor than to her own subjects. The minority are made to suffer same real or imagined loss or ill convenience, that the public good may be subserved. In the adjustment of her public debt the State aimed to and did perform substantial justice to her own citizens and to her creditors, treating them all alike.

But, again, it is said the State is now able to pay these bonds outstanding, and therefore she should not plead the act of 1847. This argument comes with a poor grace from parties who repudiate the act by which she was enabled to overcome her embarrassment and finally establish her solvency. If there is any special courtesy or partiality is it not in favor of the parties who cheerfully accepted the position and assisted to sustain our credit? If all our creditors had shown the same disposition as these there is no telling to-day what might have been our financial condition.

The simple question now is was the adjustment acts of 1846–47 binding and operating upon all affected by it? We must take it all or reject it all. The whole of it was intended for one purpose. If in that pupose it failed the whole of it was a failure. If the law was unconstitutional, inoperative, or void as to these bonds contemplated in this bill, were not other parties injured aggrieved who were made to believe that the State meant what she said when she declared year after year that she would never make any other arrangement with her creditors than the one declared by law to be her ultimatum?

Suppose that the Legislature at any time while the funding of the old State debt was going on had said that creditors who refused to accede to the arrangement should finally be paid in full, principal and compound interest, but few would have ever accepted of the terms offered, and to-day most of the partes holding canal stock would have been holding the old bonds against us. Can we say now that during all that time the State was merely using brute force to force or drive her creditors into acquiescence with her plans, and that in after times she intended to withdraw her threats and pay in full those who refused to put confidence in her repeated assertions?

For my part, as one of the representatives of the people of this State, whose sentiments I knew and represented, I have often asserted to our creditors that the provisions of that Butler bill was a finality, and I can not go back upon that record now without stultifying myself and my constituency.

I must still maintain that the adjustment bill of 1846 and 1847 was framed in justice and equity; that in it there was no violation of contract, that in the spirit of the act the State redeemed her plighted faith and all that the most exacting judge could have demanded of her. She surrendered all her property and consented to tax her people all they were able then to bear. The act was public and authoritative, and her faith was pledged to its observance as much as it was in the act authorizing the debt.

But the case now before us has new complications, differing from any presented before. Two parties, both State creditors, and therefore both adverse in interest to the State, are at law over property once owned and ceded by the State, and by a species of logic new and peculiar, worthy of the school of the Sorbonnie which Pascal so aptly delineated, it is now made to appear that in any event of that suit the State is liable for claims and demands which have been adjusted by the State twenty-five years ago.

If the controversy referred to in the bill before us is between two parties, and the result cannot affect the State, why bring it before us and make their acts a subject of legislation? If the decision of the court affects the rights or interests of the State why is she not made a party to the suit? If by reason of her sovereignty she cannot be made a party, how can the suit be brought and the State be made to suffer where she cannot appear? If the the solemn acts of the State founded in justice and directed to the public good and sustained by courts and people for twenty years can be nullified or set aside by the decision of a Circuit Judge upon a collateral issue where the State is not a party, who is to be the custodian of the public faith and why may not the State be made to answer in every court of the State in civil suit and abide the decision of the court, and thus become a subject of the administration of justice rather than its administrator?

Mr. HARNEY spoke at greater length on the subject, and when he concluded, the motion [Mr. Steele's] that the bill be ordered engrossed for the third reading, was agreed to by yeas 32, nays 15, as follows:

YEAS—Messrs. Beardsley, Beeson, Bird, Brown, Bunyan, Collett, Daggy, Dittemore, Dwiggings, Friedley, of Scott, Gooding, Hall, Haworth, Hough, Howard, Hubbard, Miller, Neff, O'Brien, Oliver, Orr, Rhodes, Rosebrugh, Sarnighausen, Scott, Sleeth, Steele, Taylor, Thompson, Wadge, Winterbotham, Mr. President—32.

NAYS—Messrs. Armstrong, Boone, Bowman, Carnahan, Cave, Daugherty, Francisco, Gleasner, Gregg, Harney, Riggo, Slater, Smith, Stroud, Williams—15.

Pending the roll call—

Mr. ROSEBRUGH, in explanation of his vote said: This question is one that has puzzled almost every person that has attempted to look into it. It was not in a condition he would like to see it, although his views were somewhat changed since the original question came before the Legislature. His vote was based upon the ground that the State owed a debt that the public works were pledged to protect, and inasmuch as the public works cannot discharge the debt the faith of the State is pledged to discharge it: therefore, he voted in favor of the engrossment of the bill.

The vote was then announced as above recorded.

So the bill was ordered to be engrossed.

On motion of Mr. STEELE, the bill was read the third time, and put upon its passage.

Mr. STEELE then took the floor and commenced an argument in favor of the passage of the bill. Before he had concluded, he gave way for a motion to adjourn.

And then the Senate took a recess till two o'clock p.m.

AFTERNOON SESSION.

Mr. STEELE resumed the floor, and continued his remarks in favor of the immediate passage of his bill. He contended that the State is bound to pay these bonds as they fall due, or else we are bound to submit ourselves to the charge of having broken our contract.

He argued that it was never the intention to cut off the rights of those who failed to surrender their bonds. The eighth section of the act itself recites that "a large portion of the bondholders" had signified a desire to compromise, thus recognizing the fact that the desire was not unanimous.

As to the certificates held by those who surrendered their bonds, he held that no liability could arise on the part of the State for their payment. By the Butler compromise two kinds of certificates were issued, one payable by taxation and the other to be liquidated by the transfer to the holders of the canal, its lands, tolls, and revenues. Those belonging to the first class have already been paid, and those belonging to the second class were provided for as indicated. The entire liability of the State upon the surrendered bonds, then, has been discharged, and the holders of the certificates can have no

claim against the State as long as the canal and its tolls and revenues are secured to them according to the provisions of the bill.

The act itself recognizes a difference between the status of those who surrendered their bonds and received certificates therefor and those who retained them.

A priority of payment was given to the bonds of the latter. After a certain date other bondholders could indeed come in and surrender their bonds, but they could not stand upon the same footing as those who availed themselves of the privileges accorded by the Butler bill.

He then read the section of the law which pledges the tolls and revenues of the canal to the payment of the certificates, and that the State will not permit the tolls and revenues to be diverted from that purpose until the certificates are fully redeemed. He maintained that by this pledge the State was bound to defend the canal against the suit brought, and to protect it from sale and sequestration, and that if the State did not so protect it she would become liable for the payment of the certificates by taxation. The amount for which the State would thus become liable is about $18,000,000.

He said those who oppose the passage of this bill practically advocate repudiation, and made a strong appeal to Senators not to cast this stain upon the fair fame of the State. When he had concluded

Mr. NEFF made a demand for the previous question, to stop this argument at once. But by request he withheld it for the present.

Mr. HARNEY again took the floor and replied to Mr. Steele, declaring that he could not consistently vote for the bill in its present state. He said it seemed that whatever position was taken by the Assembly, the most direful consequences were to be apprehended. The Senator from Grant (Mr. Steele) supposes that all who embraced the provisions of the Butler bill did so from choice; that the inducements offered to them were such that they voluntarily came into the arrangement. That was not the case. Very many of them did so under a species of duress with the knowledge that the canal was good for nothing and upon the representations of the State that she would never make any other settlement with her creditors than that provided by the bill.

Now, he said, suppose that Mr. Charles Gould, who, in January, 1872, surrendered four of the old interhal improvement bonds and took in place of them certificates of stock, to be paid by taxation, for one-half the amount and certificates of canal stock for the other half, the only value the canal stock had then being a prospective value to grow out of future legislation —suppose that Mr. Gould should come before this House and represent that he had been induced by the statements of the representatives of the State to believe she would make no other provision for the payment of the bonds than that prescribed by the bill and had therefore been persuaded to surrender his bonds and take one-half the amount in worthless scrip; that he had been deceived by the representation and, therefore, asked relief. Suppose the Assembly should refuse to give him relief, then on whose shoulders would lie the oblequy? Could he not go out and herald it to the world that the State of Indiana had falsified her word to him, induced him to give up his bonds and take worthless scrip on a false representation?

Now, suppose, on the other hand, that Mr. Rothschild, for instance, who had given up his original bond and was a subscriber to the canal stock should stand by and see the canal sold by the order of the Carroll County Circuit Court and he dispossessed of his rights; and suppose after the canal had been sequestered that he should come back and say that the State had pledged herself to protect him in the possession of the canal, and had suffered it to pass from his control, and therefore was bound to indemnify him for the original debt? Which of the two cases is the hetter ?

The speaker could not see any course they could take that was not encompassed with dangers except one. The people of the State at one time adjudicated on this matter. They did it in the most solemn manner, at a time when the facts were fully before them, and announced their decision in such clear terms that no one could mistake it; and the people for twenty-five years have acted on that decision. If it is repudiation to stand by a bill that has been on the statute books for twenty-five years, we are still in honorable company. All the officers of the State from the Governors down to those of the minor departments, have stood by the law. It has been the understanding on all hands that that settlement was a finality. It seemed to him that after we have spent the money and endeavored to rescue the credit of the State from the stain which is likely to be cast upon it, we are still liable to the same insinuation and obloquy from the other side claiming that we have not

done justice by them. The fact that their original bonds have passed out of their possession does not extinguish their claim against the State any more than the destruction of a promissory note under a misapprehension of its value extinguishes the debt of which it was an evidence.

He said, inconclusion, that he would be willing to pay these parties a reasonable gross sum in final settlement of the controversy, but he could not vote for the pending bill.

Mr. BOONE held that by the fact that these holders of canal certificates stood off while the suit was in progress, and made no attempts to assert their rights, they would be barred from recourse on the State. He maintained, further, that the provision in the Butler bill that the State would make no provision for the payment of the improvement bonds other than that contemplated by the bill was still valid, and the State was bound in honor and good faith to abide by it. He said that for those of the 191 bonds held by the Morris Canal Banking Company the State received no consideration.

Mr. GLESSNER was the last speaker in opposition to the measure, who stated, as a matter of history, that no consideration whatever was received by the State on account of the Morris Canal Banking Company, and the State was a loser of hundreds of thousands of dollars. He reiterated the statement that the State never received any consideration for them, and that they were therefore void. In 1841, through the perfidy and bad faith of many of those who received and negotiated these bonds the consideration that was to come to the State in exchange for them failed entirely, and that added greatly to the embarrassment of the State at the time when she failed to pay any interest on the bonds, and she was unable to pay interest on the bonds until 1846, when the Butler bill was passed. This bill was passed shortly after the issuing of the bonds, and the presumption was that they were still in the hands of the original holders. This bill of 1846 gave notice to the world that they would pay these bonds in no other way than the one presented in the act. Therefore, those persons holding those bonds or who have received them since that time are not innocent holders, but stand in the same position with the original holders and therefore have no more equity than the original holders would have. When this bill was passed the best men in the State were in the Legislature. They said that that was a fair adjustment. They did not regard it as a repudiation, and it was understood at that time that the bondholders were satisfied with it.

He did not believe that the State was legally liable for the payment of these bonds, and yet we are told that the good faith of the State requires us to take from the pockets of the people and pay not only the principal, but the interest that has accumulated thereon, on account of which the State of Indiana has never received a dollar.

Mr. BROWN closed the debate with a speech in favor of the bill, declaring that he should cast his vote for the pending bill more from what appeared to him as a question of expediency, perhaps, than from what the legislative contract of 1846-7 expresses. The Legislature may do what it will, and the holders of the canal scrip will make its act a pretext to come back upon the State and call upon her to liquidate their claims. He believed it was better for the State to take up these bonds that are now surrendered, than to hazard the dire calamity which might follow having the canal taken away. His opposition heretofore to the payment of these bonds has been for fear the State might be dragged into a court of justice in order that some undue advantage might be taken of her. In his judgment, the State is now voluntarily doing more than, under the law and the contract, she could be called upon to do, and he thought she perhaps had better do that than to stand by and allow the holders of the Wabash and Erie canal to harden their hearts against it so that they would allow that trust to be swept away, in order that they may bring up against the State a claim for the redemption of some eighteen or twenty millions of dollars.

He then reviewed the history of these bonds, and the legislation in regard to them. He reiterated his belief that it was the intention, by the bills of 1846-7, to relieve the State from all liability for the payment of one-half of the internal improvement debt. He read from the memorial presented to the General Assembly in 1852 by the creditors to prove that the adjustment was made on their application, and they were not dragged into it, as had been said. It is a matter of history that the bill was drawn up by Charles Butler, the accredited agent and attorney of a large portion of the creditors. He believed the contract relieved the State from all liability for the payment of one-half the debt, placing it upon those who surrendered the bonds, and that it was so understood on all hands at the time. He contended that if the State paid these out-

standing bonds the holders of the certificates would claim payment from the State on the ground that she had violated her contract by paying the holders of the unsurrendered bonds in a different manner from that provided in the bill. But which course will give them the greater claim, to allow the canal to be sequestrated and sold, or the other course which will enable them to say that the contract has been broken. It was a choice between two evils, but he thought there would be less risk in pursuing the former course. Believing this he should vote for the bill.

At the close of Mr. Brown's remarks—

Mr. STEELE demanded the previous question, and the bill was passed by yeas, 30; nays, 18:

Yeas—Beardsley, Beeson, Brown, Bunyan, Collett, Daggy, Dittemore, Dwiggins, Friedley, of Scott, Gooding, Haworth, Hough, Howard, Hubbard, Miller, Neff, O'Brien, Oliver, Orr, Rhodes, Rosebrugh, Sarnighausen, Scott, Sleeth, Steele, Taylor, Thompson, Wadge, Winterbotham, Mr. President—30.

Nays—Armstrong, Beggs, Bird, Boone, Bowman, Carnahan, Cave, Daugherty, Francisco, Glessner, Gregg, Hall, Harney, Ringo, Slater, Smith, Stroud, Williams—18.

Pending the roll call Mr. CARNAHAN explained his vote in opposition to the bill. He had the honor of a seat in the General Assembly at the time of the passage of the Butler bills, and was satisfied that the majority of the people of Indiana were opposed to this measure.

Mr. GREGG, when his name was called also explained his negative vote, believing that in voting against the bill he was fairly representing ninety-five per cent. of his constituency.

Mr. HALL voted no, believing the State to be entitled to the result of the negligence of these bondholders in allowing their guarantees to die by lapse of time.

On motion by Mr. BROWN the title of the bill was stricken out and the following substituted therefor:

"AN ACT to provide for the payment of sundry bonds or stocks, of the State of Indiana, issued prior to the year 1841, and declaring an emergency.

The following is the form of the bill as passed:

AN ACT to provide for the payment of sundry bonds or stocks of the State of Indiana issued prior to the year 1841, and declaring an emergency.

WHEREAS, There are still outstanding one hundred and ninety-one of the old bonds or certificates issued by and under the authority of the laws of this State prior to the year 1841, upon some of which no interest has been paid since January, 1841, and upon others of which the interest has been settled up to July, 1868; therefore,

SECTION 1. *Be it enacted by the General Assembly of the State of Indiana*, That the Governor, Attorney General, and Secretary of State and Treasurer of State, or a majority of them, be, and they are hereby authorized and empowered to take up and redeem the bonds (with the coupons thereto belonging) mentioned in or contemplated by the preamble to this act and for that purpose a sum of money sufficient to accomplish the object is hereby appropriated; the same to be drawn from the Treasury on warrants of the Auditor in such sums and at such times as the Governor, Attorney General, Secretary of State and Treasurer of State shall, from time to time, in writing order or direct; every such direction stating the amount to be drawn and the purpose for which it shall be used, and every sum thus drawn shall be applied by the Treasurer of State under the direction of the Governer, Attorney General and Secretary of State, to she purposes for which it shall have been drawn.

SEC. 2. No money shall be drawn from the Treasury by virtue of this act over and above what may be necessary to pay and redeem one hundred and ninety-one bonds (and their coupons) such as are described in the preamble to this act, and such bonds shall be redeemed in the order of their presentation at the Treasury of the State for redemption: *Provided*, That no bond or coupon shall be paid or redeemed until it shall have become due and payable according to the tenor and effect thereof.

SEC. 3. It shall be the duty of the Governor, Attorney General, Secretary of State and Treasurer of State to exercise the utmost scrutiny in testing the genuineness and validity of each bond and coupon which may be presented for redemption under the provisions of this act, and no bond or coupon shall be paid or redeemed unless the same is surrendered to the Treasurer of State at the time of redemption, and the bonds and coupons so redeemed shall be preserved by the Treasurer of State, and be subject to such disposition as the General Assembly may hereafter cause to be made thereof, and the Governor, Attorney General, Secretary of State and Treasurer of State shall, immediately after making any redemption under this act, prepare and sign a detailed description of the bonds and coupons so redeemed, with the date of their redemption, and such description shall be filed in the office of the Auditor of State, and shall be recorded by him in some book to be provided and kept for that purpose.

SEC. 4. If at any time there shall not be money enough in the Treasury not otherwise appropriated to enable the officers of State, hereinbefore mentioned, to carry out the provisions of this act then, and in that case, it shall be lawful for the said officers of State to negotiate and make for, and on behalf of the State, a temporary loan or loans of such sum or sums of money as may be necessary, not, however, exceeding in the aggregate the sum of two hundred thousand dollars, on the best attainable terms, such loan or loans to be payable at the expiration of forty days from and after the commencement of the next succeeding session of the General Assembly.

SEC. 5. An emergency is hereby declared to exist requiring the immediate taking effect of this act; wherefore the same shall take effect and be in force from and after its passage.

THE DRAIN LAW.

On motion of Mr. HUBBARD, the vote by which a substitute for the drainage law [S. 88] was made the special order for next Tuesday, was reconsidered.

Mr. HUBBARD moved that the bill [S. 88] in relation to the construction of sewers, dykes and drains be taken from the table and read the second time.

The motion was agreed to.

Mr. DWIGGINS said that the bill provides that assessors shall be appointed by the several counties interested, and in a great many other respects is superior to the present law.

On motion by Mr. HUBBARD the bill was then referred to the Committee on Corporations.

TWO PER CENT. CLAIMS.

Mr. STEELE, by consent, offered a joint resolution in relation to the two per cent. claims of Ohio, Indiana and Illinois pending before Congress, directing our Senators to favor the passage of a bill for the payment of said claims.

It passed the Senate; yeas, 45; nays, 0.

[NOTE.—These claims on the part of Indiana amount to about $400,000.]

Mr. COLLETT, from the Committee on Enrolled Bills, reported that they had found Bill No. 65, ceding jurisdiction to the United States of ground in Indianapolis on which to erect public buildings, properly engrossed.

THE SUPREME COURT.

The PRESIDENT presented a communication from the Reporter of the Supreme Court, stating that about 460 decisions had been rendered other than those which would be contained in the thirty-fifth volume, which will appear in a few weeks. After the publication of that volume, the reports will be in arrears about six months. The causes of the failure to comply with the law, the Reporter states to be that since the advent of the new court, decisions have been made with unprecedented rapidity; and with the assistance and facilities at his command he was unable to keep up with the work, but that he has now obtained additional help and more material, and will be able soon to recover the lost ground.

It was referred to the Committee on the Organization of Courts.

The Senate then adjourned until tomorrow at 10 o'clock a. m.

THE

BREVIER LEGISLATIVE REPORTS

THIRTEENTH VOLUME.

INDIANA LEGISLATURE.

HOUSE OF REPRESENTATIVES.

FRIDAY, December 6, 1872.

The House was called to order by the Speaker at nine a. m., and prayer was offered by Rev. Mr. Chandler.

On motion of Mr. HOLLINGSWORTH, the reading of the journal was dispensed with.

THE CANAL BOND QUESTION.

Mr. KIMBALL, from the majority of the Committee on Ways and Means, submitted a lengthy report on his bill [H. R. 129] to protect the Wabash and Erie Canal, its tolls and revenues from sequestration and sale to satisfy any judgment growing out of bonds which are a lien upon the canal, and for the payment of which the State is liable.

The report gives a full history of the creation of the internal improvement debt, and the causes which led to the adjustment under the Butler bill, the manner in which that legislation was procured, the history of the Garrett suit, and the bonds outstanding held by the United States and others, and concludes with the expression of the belief that the State is liable for the payment of the unsurrendered bonds, that such payment will not make her liable on account of the canal certificates held by the present owners of the canal, but that, on the other hand, should she permit the canal to be sold to satisfy the Garrett judgment, she would become liable for the entire canal debt, for the reason that she had permitted the property given them in satisfaction of one-half their claim to be sold to satisfy a private claim against the State. The report concludes with a recommendation that the bill be passed.

Mr. WILLARD, from the same committee, submitted a minority report, signed by himself and Mossrs. Peed and Brett. It proceeds upon the assumption that the Butler Bill, so called, is either valid or void: and, if valid, then Garrett has no claim for the reason that he has not complied with the requirements of the proviso which stipulates for the surrender of the bonds and the acceptance in lieu thereof of canal certificates. The payment of the judgment of John W. Garrett would annul the proviso of the Butler Bill. Those who surrendered the bonds they held, under the Butler Bill, did so knowing there were others outstanding, which remained a lien upon the canal. They express the opinion that under no circumstances should provision be made for more than the 43 bonds held by Garrett; and believing that the provisions of the bill [H. R. 129] are fraught with danger, they recommend that it be laid on the table.

Mr. GRONENDYKE moved to print the majority report.

Mr. CAUTHORN moved, as an amendment, that both reports be laid upon the table, that five hundred copies of each be printed, and their consideration made the special order for Tuesday next, immediately after reading the journal.

The amendment was accepted by Mr. Gronendyke.

Mr. BAKER moved to amend by providing for the printing, in connection with the reports, of the Butler Bill.

Mr. CAUTHORN moved to lay the amendment on the table.

The motion was agreed to, and then the order was adopted.

MESSAGE FROM THE GOVERNOR—TWO PER CENT. FUND.

A message was received from the Governor in relation to the two per cent. fund of the States of Ohio, Indiana and Illinois. His Excellency calls attention to the fact that Indiana, Ohio and Illinois have received only three per cent, from the proceeds of the sales of public lands within their borders, while other States have received the full five per cent., and urges action by the Legislature looking toward securing the passage of the bill now pending in Congress for the adjustment of the claims of these States, Indiana's claim amounting to over $400,000.

Mr. WALKER, from a majority of the Judiciary Committee, returned Mr. Willard's last will and testament bill [H. R. 62] recommending that it be laid on the table.

Mr. CAUTHORN, for the minority, dissented and submitted an amendment to the bill, which was rejected.

The majority report was concurred in.

Mr. MELLETT, from the Committee on Education, returned Mr. North's bill [H. R. 138] to amend the third section of the act authorizing cities and towns to negotiate and sell bonds for school building purposes, with an amendment to the first section, inserting these words: "On all property owned by said persons residing in the township where such city or town is located."

The amendment was adopted and the bill ordered to be engrossed.

Mr. FURNAS, from the Committee on Agriculture, returned Mr. Woodard's fish law repeal bill [H. R. 140] recommending its indefinite postponement.

It was concurred in.

Mr. GIFFORD, from the Committee on Cities and Towns, returned Mr. Tulley's bill [H. R. 128] empowering the Board of Trustees of any incorporated town to plant shade trees within the same.

It was ordered to the engrossment.

Mr. GIFFORD also returned Mr. King's bill [H. R. 99] authorizing incorporated cities of 10,000 inhabitants or over to issue bonds and borrow money (not exceeding ten per cent. on the taxables) recommending its passage.

Mr. WILLIARD proposed to amend by striking out "ten" and inserting "four," with reference to the limitation of the loan, which was laid on the table, and then the bill was referred again to the committee.

NORMAL SCHOOL MEMORIAL.

On motion of Mr. BRETT, the vote by which the House refused to print the State Normal School memorial was reconsidered.

Mr. BRANHAM. I move that the memorial be laid on the table, and that 500 copies be printed. It asks for certain appropriations.

The motion was agreed to, and it was so ordered.

The SPEAKER now resumed the call of the roll by counties and districts for—

NEW PROPOSITIONS.

Mr. JONES introduced a bill [H. R. 184] to create the 30th Judicial Circuit, providing for the election of a judge thereof, the jurisdiction of said court, and the transfer of business. [Madison Criminal Circuit.]

It was referred to the Judiciary Committee.

Mr. PEED introduced a bill [H. R. 185] to legalize the official acts of the Board of Trustees of the town of Huntingburg.

It was referred to the Committee on County and Township Business.

Mr. PEED introduced a bill [H. R. 186] to amend the act of March 5, 1855, declaring the having carnal knowledge of any insane woman to be a felony.

It was referred to the Judiciary Committee.

Mr. REEVES presented a temperance paper, from sundry citizens of Wayne county.

It was referred, under the rule, without reading.

Mr. SATTERWHITE introduced a bill [H. R. 187] to prohibit township trustees from levying taxes.

It was referred to the Committee on County and Township Business.

Also, a resolution for the employment of Eddy Vater and Charley Brown as outdoor pages.

Mr. LENFESTY moved to lay it on the table.

The motion was not agreed to.

The resolution was so amended as to provide that their pay shall commence with the beginning of the session, and passed.

Mr. SHIRLEY introduced a bill [H. R. 188] to amend section 433 of the practice act of June, 1852.

It was referred to the Judiciary Committee.

Mr. WOODARD introduced a bill [H. R. 189] to place directors and other officers of macadamized and gravel roads who may have become creditors of such roads, on an equality of all other persons.

It was referred to the Committee on Corporations.

Mr. SCHMUCK presented the petition of six hundred men of Perry county against the repeal of the liquor license act.

It was referred to the Committee on Temperance.

Mr. WHITWORTH introduced a bill [H. R. 190] to amend sections twenty-five and twenty-six of the act of May 2, 1852, regulating descents and the apportionment of estates.

It was referred to the Judiciary Committee.

Mr. HATCH introduced a bill [H. R. 191] declaring the cutting of timber without authority on lands not owned by the person cutting the same, or the purchase of timber so cut, a felony, punishable by fine or imprisonment.

It was referred to the Committee on Agriculture.

Mr. BUTTS, a bill [H. R. 192] to amend the act providing for the election and qualification of road supervisors.

It was referred to the Committee on Roads.

Mr. BUTTS introduced a bill [H. R. 193] to amend section 2 of the act for the protection of wild game. [It shall not be lawful to trap quails at any time, nor to kill a list of harmless birds.]

It was referred to the Committee on Rights and Privileges.

Mr. GLASGOW introduced a bill [H. R. 194] to repeal section 18 of the act of May 14, 1852, regulating descents and the apportionment of estates.

It was referred to the Committee on the Organization of Courts.

Mr. HENDERSON introduced a bill [H. R. 195] to amend the first section of the act to incorporate the University of Notre Dame du Lac at South Bend, St. Joseph county, Indiana, approved July 14, 1844. [It authorizes the corporators to hold real estate not to exceed $300,000 in value.]

It was referred to the Committee on the Judiciary.

Mr. HOLLINGSWORTH introduced a bill [H. R. 196] to prevent injurious results arising from the use of intoxicating liquors by public officers. [Officer to qualify by this additional oath: "I further swear or affirm that I will not use intoxicating drinks to the detriment of my official duties during my term of office."]

It was referred to the Committee on Temperance.

Mr. COLE introduced a bill [H. R. 197] to regulate the fees of certain officers therein named, and repealing former acts in relation thereto.

It was referred to the Committee on Fees and Salaries.

Mr. RIGGS introduced a bill [H. R. 198] to amend sections fifteen, nineteen, thirty-one and forty-nine of the act of May 12, 1852, to provide for the organization of savings banks.

It was referred to the Committee on Banks.

Mr. RUDDER introduced a bill [H. R. 199] concerning the office of County Recorder. [Deeds must be recorded within thirty days.]

It was referred to the Committee on Fees and Salaries.

LAND SALES CLAIM.

Mr. BRANHAM submitted a joint resolution in relation to the two per cent. claim bill of Ohio, Indiana and Illinois, now pending in Congress, instructing our Senators and Representatives in Congress to vote for and use their influence to procure the passage of said bill speedily.

Mr. MILLER asked for information.

Mr. BRANHAM said: It is only asking our Senators and Representatives to place our State, with the States of Ohio and Illinois, on the same footing with other land States. The interest of the State of Indiana in this matter of two per cent. on the sales of the public lands is about $400,000.

The joint resolution was adopted on the part of the House of Representatives—yeas 92, nays 0.

JUDICIAL APPORTIONMENT.

Mr. WOOLLEN submitted a concurrent resolution for the appointment of a joint special committee of six Representatives and three Senators, to equalize the judicial circuits and districts of the State, upon the basis of 60,000 inhabitants and forty weeks service time of the judge.

It was laid on the table by request.

Mr. BAKER submitted a resolution instructing the Committees on Judiciary and Insurance to inquire what measures are necessary for the establishment of a bureau of insurance, and the protection of holders of policies, and to report by bill or otherwise.

It was adopted.

ORDERS OF THE DAY.

The SPEAKER laid before the House a communication from the Governor, recommending the passage of a proposition like Mr. Branham's joint resolution in relation to the two per cent. land sales claim of the State.

The court bill [S. 8] passed the House without amendment; yeas, 80; nays, 0.

Mr. Kimball's Governor's salary bill [H. R. 166] was ordered to be engrossed.

The bill [H. R. 164] to amend section two of the act concerning the organization of voluntary associations [naming the character of associations that may so organize], was taken up.

Mr. WALKER desired to amend this bill in the third section, by inserting these words: "Or to establish institutions for the medical treatment of males or females."

The amendment was adopted, and the bill was ordered to be engrossed.

The Governor's house rent bill [H. R. 165] was ordered engrossed.

IMPROVEMENT OF THE WABASH RIVER.

Mr. CAUTHORN submitted a joint resolution in relation to an appropriation by Congress ($250,000) for the improvement of the Wabash river. Passed; yeas, 83; nays, 5.

Mr. KIMBALL obtained unanimous consent to return his funded debt bill [H. R. 181] with an amendment recommended by the Committee on Ways and Means, to fill the blank with the words "five hundred."

The amendment was adopted, and the bill was ordered to be engrossed.

The House then took a recess till 2 o'clock p. m.

AFTERNOON SESSION.

The SPEAKER called the House to order at 2 p. m.

Mr. GIVAN moved to take from the table Mr. Furnas' bill [H. R. 56] appropriating $20,000 annually to the State University at Bloomington.

The motion was agreed to.

The bill was read the second time, and ordered to be engrossed.

NEW BILLS.

Mr. MELLETT introduced a bill [H. R. 200] to authorize and empower County Commissioners to equalize the bounties to soldiers.

It was referred to the Committee on Federal Relations.

Mr. COBB introduced a bill [H. R. 201] to exempt fire engine houses, fire engines, and other apparatus for the extinguishment of fires, from sale under execution.

It was referred to the Judiciary Committee.

Mr. PFRIMMER introduced a bill [H. R. 202] to amend the act prescribing the duties of coroners.

It was referred to the Judiciary Committee.

INDIANA CENTENNIAL ASSOCIATION.

Mr. Kimball's bill [H. R. 6] creating the Indiana Centennial Association was taken up in order and finally passed the House—yeas 76, nays 0.

FRANKLIN INSURANCE COMPANY.

Mr. Kimball's bill [H. R. 36] to amend sections one, six and sixteen of the act to incorporate the Franklin Insurance Company, approved February 13, 1851, was taken up on the third reading.

Mr. MILLER understood that one purpose of this bill is to make the charter of this company perpetual.

Mr. KIMBALL. It is an old charter, passed before the adoption of the present constitution. The charter ran for fifty years. The company was located in Franklin, in Johnson county. There is an alteration in the term of the charter; it is proposed to make it perpetual, but this does not take it beyond the control of the Legislature. It was desirable to change the location from Franklin to this city, and to fix the limit of the capital at $500,000; also also to so change it that each shareholder vote the full amount of his stock. It is not a life, but a fire insurance company.

The bill was passed the House—yeas 75, nays 2, with an amendment of the title, striking out the word "sixteen."

EARLIER WORK ON THE ROADS.

Mr. Ellsworth's bill [H. R. 59] to amend section six of the act to amend the act to provide for the election or appointment of supervisors, etc., was taken up on the third reading.

Mr. BUSKIRK desired to hear some explanation of the bill.

Mr. GLASGOW. I am not the author of the bill—he is not present. All the difference between this bill and and the law as it now stands is this; it permits some of the road work to be done in the month of March or April—commencing two months earlier. That is all the change.

Mr. MELLETT. It is a well known fact; that, as the law now stands, the busiest time in the year is the time it requires men to work the roads.

The bill was finally passed the House of Representatives—yeas 51, nays 30.

CHANGE OF VENUE EXPENSES.

Mr. North's bill [H. R. 130] relating to expenses incurred by change of venue, providing that the county from which such change is taken shall be responsible for the

costs, including the charge for keeping the prisoner, etc., was taken up on the third reading and finally passed the House of Representatives—yeas 69, nays 14.

RAILROAD CROSSINGS.

Mr. North's bill [H. R. 144] providing that when it becomes necessary for one railroad to cross another, the company owning the road last constructed shall bear the expense of making such crossing, and that subsequent costs for keeping the same in order shall be borne equally, was taken up in its order on the third reading and finally passed the House of Representatives—yeas 84, nays 6.

GOVERNOR'S COMPENSATION.

On motion of Mr. CAUTHORN, the order of business was suspended for the consideration of messsages from the Senate.

The bill [S. 124] an act defining what shall be the salary of the Governor, and making provision for the payment of the same. [$8,000 a year for services and house rent, to be drawn quarterly] was taken up and considered on the first reading.

On motion of Mr. BRANHAM (the restrictions being suspended for the purpose) the bill was finally passed the House of Representatives, without amendment—yeas 85, nays 1.

The bill [S. 38] in reference to the sale of certain real estate, to provide a residence for the Governor, and to make an allowance in lieu thereof, was taken up and read the first time.

Mr. CAUTHORN moved that the rule be suspended and the bill put upon its passage.

The motion was agreed to; and then the bill was read the second and third times by title, and finally passed the House of Representatives without amendment—yeas, 85; nays, 0.

On motion of Mr. CAUTHORN the bills of the House numbered 164 and 165, relative to the compensation of the Governor, which were ordered to be engrossed this morning, were taken up and laid on the table.

The SPEAKER laid before the House a communication from the Secretary of State transmitting a price list of stationery being furnished to members.

CITY SCHOOLS—LIBRARIES.

Mr. WALKER'S bill [H. R. 155] providing for a system of common schools in cities of 8,000 inhabitants and over, for the election of School Commissioners for such cities, for a school library etc., was taken up and read the third time.

Mr. WALKER. It is an exact copy of the bill passed at the last session, providing for a system of common schools in cities of 30,000 or more inhabitants, which had also a provision by which cities of less than 30,000 might avail themselves of its provisions; but this provision was held to be defective for want of a perfect title. At present the Common Council appoint the School Board, which becomes an occasion of a good deal of political manœuvering. This bill is to take this out of the hands of the politicians, and give to the people the opportunity of voting directly for the School Board.

Mr. HOLLINGSWORTH moved to recommit the bill with instructions to inquire whether the plan proposed is not too expensive, and whether the proposition is not in other respects inexpedient.

On motion of Mr. BAKER, the motion to recommit was laid on the table.

And then the bill was finally passed the House of Representatives—yeas 72, nays 4.

Messrs. Blocher, Cline and Pfrimmer obtained leave of absence till Monday.

A message was received from the Senate announcing the signing by the President of the House bill in relation to the completion of unfinished business by the next regular or special session.

On motion of Mr. CLARK, the claims of the J. M. & I. R. R. Co., for transportation, were, by consent of the House, again referred to the Committee on Claims.

Mr. CAUTHORN presented the claims of the witnesses summoned in the Carroll county case for pay and mileage, and asked that they be referred to the committee on Public expenditures.

It was so ordered.

On motion of Mr. GIVAN, the House then adjourned till to-morrow at nine o'clock.

THE

BREVIER LEGISLATIVE REPORTS

THIRTEENTH VOLUME.

INDIANA LEGISLATURE.

IN SENATE.

SATURDAY, December 7, 1872.

President Friedley took the chair at ten o'clock.

A message from the House announced the passage of a resolution in relation to Indiana's two per cent. claims, and a resolution in relation to the improvement of the Wabash river; also the following bills: H. R. 6, creating Indiana Centennial Commission; H. R. 36, to amend charter of Franklin Insurance Company; H. R. 59, to amend supervisor's act; H. R. 139, in relation to change of venue and costs therein; H. R. 146, in relation to earnings of railroads; H. R. 155, a city common school law; S. 8, Twenty-fifth Common Pleas Court bill; S. 38, for Governor's house rent, $5,000 a year; S. 124, for Governor's salary, $8,000 a year.

PETITIONS.

Mr. SCOTT presented a communication from the President of the Indianapolis and Terre Haute Railroad Company in reference to the alleged claim of the State for surplus profits, in accordance with the provisions of the charter. He asked that it be read, and moved for the printing of 200 copies.

Objection being made to its reading, Mr. S. waived that request.

Mr. SLEETH considered it unnecessary to print this petition till the Railroad Committee shall be through with the investigation.

The motion to print was then discussed for some time and finally agreed to.

It is as follows:

To the Senate and House of Representatives of the State of Indiana:

The President of the Terre Haute and Indianapolis Railroad Company submits to your honorable bodies the following communication:

There seems to be an impression among many citizens of the State that this company is indebted to the Common School Fund in a large sum of money, under the twenty-third section of its charter, which provides: That when the dividends declared shall amount to a sum equal to the capital invested, and ten per centum por annum thereon, the Legislature may so regulate the tolls of the road that but fifteen per cent. of its earnings shall be divided, and the residue over a contingent fund shall be paid to the school fund, etc.

Passing by the question (which is reserved), whether this company can under said section twenty-three be required to pay anything to the school fund, without precedent legislation regulating the tolls and declaring the dividends equal to the investment and interest, the following statement is submitted in regard to the capital invested and dividends declared by the company:

The whole amount of capital invested in said railroad company is one million three hundred and ninety thousand nine hundred and sixty-seven dollars and fifty cents.

The work was commenced in 1849 and cars were running on the road in 1852. A portion of the money was expended after the last date, much of it before.

Taking the year 1852 then as a point at which to make an average calculation of interest, we have twenty years interest to add to investment, with this result, viz:

Amount of capital invested	$1,390,967 50
Interest of 20 years at 10 per cent	2,781,935 00
Capital invested and interest	$4,172,902 50
The actual cash dividends paid to stockholders is	3,475,752 23
Excess of investment and interest over dividends is	$697,150 27

The amount here given as capital invested is not what the road cost, but is greatly less; it is what the road actually cost the stockholders independent of the earnings of the road.

The entire cost of the road is $1,988,150 00. Of this amount the sum of $597,182 50 was paid out of the earnings of the road, and for that sum dividends in stock were issued to the stockholders, making the capital stock thus equal to the cost of the road. The amount of stock, however, is not material; it is the capital invested with interest, which must be paid to the stockholders out of the earnings of the road, before anything can accrue to the school fund.

A tabular statement is hereto attached, showing the amount of dividends which have been paid each year, semi-annually and the aggregate thereof. It will be seen by the foregoing statement that the dividends so far declared and paid do not equal the amount of capital invested and ten per cent. interest per annum thereon by several hundred thousand dollars, and that therefore nothing can be due from the company to the school fund.

The calculation of interest on the investment, as will be seen, is only averaged; but a minute calculation can not materially vary the result.

It has been insisted, however, that this company was carrying an unreasonable surplus contingent fund in order to avoid declaring dividends, and the manner of making up the annual reports of the company heretofore gives color to this idea. For instance, in the last annual report, the surplus fund is stated to be more than one million of dollars, a copy of which is hereto attached, marked "Q;" whereas, in fact, that fund was but little over two hundred thou and dollars, as will appear by attached statement, marked "X," and it mostly consists of assets that are not at present available without sacrifice.

The capital invested by the company as herein stated, is based on the amount expended on the cost of building the road from Indianapolis to Terre Haute, the whole cost between those points being as stated, $1,988,150 00.

Up to 1869 the road extended no further west than Terre Haute, the company having, previous to that time, a running arrangement with other railroads to St. Louis. At this time a company was organized, under the laws of this State, to build another railroad from Terre Haute to Indianapolis (which has since been built), which company had a lease for ninety-nine years on the St. Louis, Alton and Terre Haute Railroad, the only road then running west from Terre Haute. It thus became necessary for this company to get a connection with St. Louis, or become a mere local road, and lose a great amount of its business. The company, therefore, extended its road west to the State Line, at a cost of $449,870 71, which makes part of the surplus fund reported—that sum not being on hand at all, but having been paid out to build the road to the State Line. It also became necessary for this company to assist the St. Louis, Vandalia and Terre Haute Railroad Company to build its road from the State Line to St. Louis; and this company, to that end, paid the sum of $265,000 for stock in said railroad company, which stock is not worth over $45,000, and to purchase $328,500 worth of the mortgage bonds of said company. These bonds are not at present saleable, but are worth about what they cost. It is believed that this was a good investment for this company, even if the stock should prove to be worthless, and a loss of twenty per cent. on the bonds should occur, as it was absolutely necessary to get the western connection, and it could have been had in no other way. The bonds, stocks and accounts of the other railroad companies held by this company, and going to make up the surplus fund, were obtained in helping said companies construct their roads to make northern and southern connections with the road of this company, and the money was well invested if the whole amount should be lost.

It will be seen by statement "Q" that the company owes eight hundred thousand dollars, and owns five hundred and twenty-two thousand and nine hundred dollars of its own stock. This stock was purchased at its full value to prevent parties getting a controlling interest in the road, who, it was believed, would have mismanaged it for their own profit. There was no speculation in the transaction, nor any design to defraud the school fund.

With this explanation of what, at first blush, seems an excessive surplus fund, it is submitted that in view of the question does the company owe the school fund anything.

This company has been advised that it could not be called upon to pay over anything under the twenty-third section of its charter, until the Legislature had first taken action to regulate the tolls. Nevertheless this company now is, and always has been, willing to make a full exhibit of all its financial proceedings, and if, upon a fair accounting, anything is found due the school fund, to make no technical objections to its payment.

The officers of the company now believe, and have always thought, there is nothing due; and if anything can be found due, and their calculations are wrong, the error, if any, is based on mistake, and does not proceed from design.

The Superintendent of Public Instruction, who has the care of the school fund, has been invited to examine the books of the corporation, and to make his own calculations; and a like invitation is hereby extended to any officer or committee appointed by the Legislature for that purpose, and the undersigned will furnish the Legislature or any committee thereof any further information required on the subject.

A suit has been instituted against the company in the Putnam Circuit Court, by the Prosecuting Attorney of that circuit, under said twenty-third section, not to recover the amount of money supposed to be due the school fund, but to forfeit the franchises of the company for a supposed failure to pay over money to said fund. This proceeding at a distance from the main office of the company, which is located in Terre Haute, is very inconvenient to the company, is harsher in its nature, and is one to which the company may be subjected any time at the will of any prosecuting attorney along its line.

Believing the State cannot desire the forfeiture of the franchises of this great corporation, nor want anything more from it than the money thought to be due the school fund, the undersigned asks your honorable bodies for such action or legislation as may reach a judicial determination whether anything is due the fund without disturbing its franchises. The company will consent, for that purpose, to appear to any action brought to recover the money, and will interpose no obstacle to a full and fair investigation of that question; and he asks that the quo warranto proceedings may be discontinued.

W. R. McKEEN,
President.

TERRE HAUTE, IND., December 5, 1872.

The following statement shows the amount of dividends paid in cash from December, 1852, to December, 1871, and when made, and the rate per cent:

December, 1852, 4 per cent	$35,294 [illegible]
June, 1853, 3½ per cent	35,719 [illegible]
December, 1853, 4 per cent	39,[illegible]
June, 1854, 5 per cent	44,[illegible]
December, 1754, 5 per cent	46,[illegible]
June, 1855, 5 per cent	47,[illegible]
December, 1855, 5 per cent	48,[illegible]
June, 1856, 5 per cent	49,[illegible]
December, 1856, 7 per cent	75,[illegible]
June, 1857, 6 per cent	81,[illegible]
December, 1857, 6 per cent	81,[illegible]
June, 1858, 5 per cent	68,[illegible]
December, 1858, 5 per cent	68,[illegible]
June, 1859, 5 per cent	68,[illegible]
December, 1859, 5 per cent	69,[illegible]
June, 1860, 5 per cent	69,[illegible]
December, 1860, 5 per cent	69,[illegible]
June, 1861, 5 per cent	69,[illegible]
December, 1661, 5 per cent	69,[illegible]
June, 1862, 5 per cent	69,[illegible]
December, 1862, 7 per cent	100,[illegible]
June, 1863, 6 per cent	89,[illegible]
December, 1863, 7 per cent	106,[illegible]
June, 1864, 6 per cent	114,[illegible]
December, 1864, 10 per cent	190,[illegible]
June, 1865, 6 per cent	115,[illegible]
December, 1865, 6 per cent	115,[illegible]
June, 1866, 6 per cent	115,[illegible]
December, 1866, 6 per cent	118,[illegible]

June, 1867, 6 per cent		118,989 00
December, 1867, 8 per cent		158,652 00
June, 1868, 6 per cent		119,289 00
December, 1868, 6 per cent		119,289 00
June, 1869, 6 per cent		119,289 00
December, 1869, 6 per cent		119,289 00
June, 1870, 6 per cent		119,289 00
December, 1870, 6 per cent		119,289 00
June, 1871, 6 per cent		119,289 00
December, 1871, 6 per cent		119,289 00
Total amount cash dividend		$3,475,752 23

Exhibit "Q." Terre Haute and Indianapolis Railroad Company, statement No. 3.—Ledger balance.

RESOURCES.

Construction account	$1,962,509 22	
Union Depot and tracks, Indianapolis	25,640 78	
		$1,988,150 00
Extension to Illinois State line	$449,860 71	
Double track	25,075 35	
Equipment	138,139 83	
		613,075 89
Evansville and Crawfordsville Railroad stock		13,740 48
Evansville and Crawfordsville Railroad extension bonds		79,125 00
Evansville, Terre Haute and Chicago Railway account		30,982 16
Evansville City bonds		42,500 00
Chauncy Rose, Trustee, T. H. & I. R. R. stock, 6,972 shares, at $75 per share		522,900 00
St. Louis, Vandalia and Terre Haute Railroad bonds		328,500 00
St. Louis, Vandalia and Terre Haute Railroad stock		265,000 00
Union Star Line stock		2,500 00
United States mail service		2,433 33
Bills receivable		4,912 22
Farmers' Loan and Trust Company		6,200 75
Real estate		2,555 00
Open accounts		57,133 88
Treasurer		161,860 72
Total		$4,121,569 43

LIABILITIES.

Capital stock	$1,988,150 00
Bond account	800,000 00
Bills payable	66,250 00
Unclaimed dividends	6,762 00
Coupons unpaid	2,150 75
December dividend, 6 per cent., and government tax	122,347 69
Surplus account	1,135,908 99
Total	$4,121,569 43

Exhibit "X." Explanation of surplus fund, as stated in exhibit "Q."

The surplus account is stated to be		$1,135,908 99
But of this amount there is to be deducted amounts paid as follows:		
Extension of road to State line	$449,860 71	
For double track	25,075 35	
For equipment	138,139 83	
St. Louis and Vandalia stock is estimated at $265,000, and is only worth $45,000, the difference is	220,000 00	
Real estate	2,555 00	
Evansville and Chicago Railway stock, estimated at $30,982, is worth only 50 per cent.; difference	15,491 09	
		851,121 89
Actual surplus		$284,782 10

In the estimate "Q" it will be seen that there was in the treasury, in cash, but.	$161,860 72
Of this there was required to pay dividends and taxes at once	122,347 69
Leaving a cash surplus of only	$39,513 03

The residue of surplus being in assets not at present available.

DRAINAGE LAWS.

Mr. HUBBARD, from the Committee on Corporations, returned the bill [S. 88] to encourage the construction of levees, dykes and drains, with amendments.

Mr. BROWN moved to make the report and bill the special order for Tuesday afternoon at two o'clock, when similar bills are to be considered.

After debate a vote was taken on concurrence, and decided in the negative.

The report and the bill were then made the special order for Tuesday at two o'clock p. m

REPORTS FROM COMMITTEES.

Mr. HUBBARD, from the Committee on Corporations returned the bill [S. 27] to legalize certain acts of corporations under the act of May 12, 1852, and supplemental acts for the incorporation of plank, gravel and other roads, with amendments.

The report was concurred in.

Also, from the same Committee, the bill [S. 39] to amend the drainage act of May 22, 1859, with a recommendation that it lie on the table, its provisions being incorporated in the bill S. 88.

The report was concurred in.

Mr. THOMPSON, from the Committee on Benevolent Institutions, returned the bill [S. 94] concerning homes for friendless women, with sundry amendments.

The amendments were not read, but the report was concurred in.

Mr. DWIGGINS, from the Committee on Banks, returned the bill [S. 63] in relation to holidays to be observed in payment of notes, etc., and the bill [S. 99] to empower sureties who have been compelled to pay notes, bills, &c., for their principals, to collect interest at the rate mentioned in the obligation, with a favorable recommendation.

The report was concurred in.

Mr. BEARDSLEY, from the Committee on Manufactures, returned the bill [S. 96] to encourage manufacturing in this State, with amendments striking out the provision restricting the donation to forty acres.

Mr. O'BRIEN, from the Committee on Public Printing, returned the resolution of inquiry into raised vouchers of Public Printers, reporting the same with a recommendation that the words "The President of the Senate appoint a special committee of five members of the Senate" be

stricken out and the words "Committee on Public Printing" substituted in lieu.

The report was concurred in.

SUPREME COURT DISTRICTS.

Mr. DAGGY, from the Committee on Organization of Courts of Justice, returned the bill [S. 52], dividing the State into five Supreme Court Judicial Districts, with a majority report recommending a substitute therefor.

Mr. HOUGH presented a minority report from the same committee, dissenting from the majority report for constitutional reasons, that the districts should be composed of contiguous territory. They report a substitute for the bill [S. 52]. Mr. Hough constitutes the minority and dissents on the ground that the extension proposed by the majority is in violation of a section of the Constitution, which provides that "such districts shall be formed of contiguous territory as nearly equal in population as, without dividing a county, the same can be made." He says he finds a difference between two counties, which can be remedied by his substitute, whereby the districts will be composed of contiguous territory, and the population in each will be as follows: In the first district, 335,041; second district, 334,456; third district, 335,466; fourth district, 334,274; fifth district, 336,809.

Mr. GLESSNER moved that the reports lie on the table and be made the special order for Wednesday next at 2 o'clock p. m.

Mr. DAGGY opposed postponment, as it was important to put this bill forward.

Mr. GLESSNER modified his motion by changing the time from Wednesday till Monday.

Mr. HOUGH urged the concurrance of the Senate in the minority report, which makes a variance of but about 2,000 from the lowest to the highest number in each district, while in the bill recommended by the majority there is a difference in population between the districts of about six thousand. He favored the motion to make the subject the special order for Monday at 2 o'clock p. m.

Mr. DITTEMORE moved to amend by making the subject the special order for this afternoon at 2 o'clock.

On motion by Mr. GLESSNER, this amendment was laid on the table.

The motion to make these reports the special order for Monday afternoon was agreed to.

REPORTS FROM COMMITTEES.

Mr. O'BRIEN, from the Committee on Organization of Courts, returned the bill [S. 51] to amend section 1 of the Supreme Court organization act of May 13, 1852, with a favorable report thereon.

The bill was set for consideration as the special order on Monday afternoon.

Mr. GLESSNER returned from the Committee on Organization of Courts, Mr. Boone's bill [S. 78] to amend section 15 of the justices act of May 29, 1852, with a recommendation from the majority that it lie on the table.

The report was concurred in.

Mr. HOUGH, from the Committee on Organization of Courts, returned the bill [S. 30] to amend the Supreme Court organization act, with a recommendation that it lie on the table, its provisions being included in other bills before the Senate.

The report was concurred in.

Mr. DAGGY, from the same committee returned the bill [H. R. 32] to provide times for Common Pleas Courts in the Sixteenth District, with a favorable report.

The report was concurred in.

He also returned the bill [H. R. 49] creating the Twenty-second Judicial Circuit with a similar report.

The report was concurred in.

He also returned from the same committee the bill [S. 68] to amend the second section of the 23d Common Pleas District act, with a recommendation that it pass.

These reports were severally concurred in.

Mr. O'BRIEN, from the Committee on the Rights and Privileges of the inhabitants of the State, reported back the bill to protect bodies of water from which supplies are taken for cities, etc., from defilement with an amendment in relation to the penalty for its violation and recommended its passage.

The report was concurred in.

Mr. GLESSNER, from the same committee, returned the bill [S. 84] to protect citizens of the State against empyricism with a recommendation from the majority that it lie on the table.

It was concurred in.

The Senate then took a recess till two o'clock p. m.

AFTERNOON SESSION.

Mr. BROWN, from the Committee on Railroads, returned the bill [S. 6] concerning the transportation of freights and passengers over railroads in this state, with several amendments, and a recommendation that after the adoption of the amendments the bill be passed. The amendments were merely verbal, except one, which makes the provisions of the bill apply to all common carriers.

The report was laid on the table, and the bill, as well as Mr. Brown's bill upon the same subject, [115], were made the special order for next Monday at ten o'clock a. m.

On motion by Mr. DITTEMORE, all bills having reference to this subject were made the special order for next Tuesday at ten o'clock.

STATE AGENT.

Mr. GREGG offered a resolution that the Judiciary Committee return the bill [S. 21] to abolish the office of State Agent on Monday next. Two years ago he urged the passage of a similar bill, but the seemingly good reasons against such action at that time have passed away, and there can be no serious opposition. By the terms of the bill passed yesterday, the State Agent will have nothing to do with the payment of the old Internal Improvement bonds.

After debate the resolution was adopted.

TAXATION.

Mr. BEARDSLEY offered a resolution, which was adopted, that the Finance Committee inquire into the expediency of making a general revision of the laws relating to taxation, and the assessment and collection of taxes.

INTOXICATING LIQUORS.

Mr. DAGGY offered a resolution that the Committee on Temperance report a bill on the subject of retailing intoxicating liquors, embracing the following provisions: First, that no license shall be granted for the sale of liquors except upon a petition to the Board of Commissioners signed by a majority of all persons over twenty-one years of age within the district where the petitioner desires to sell; second, that licensed liquor dealers shall be responsible for damages caused wholly or partially by intoxication which they have been instrumental in producing.

Mr. BROWN moved to amend so as to instruct the committee to inquire into the expediency of passing such a bill.

The amendment was accepted and the resolution as amended was adopted.

NEW PROPOSITIONS.

Bills for acts were introduced, read the first time and severally passed to the second reading, to-wit:

Mr. HALL, a bill [S. 130] for an act to establish a sanitarium, to provide for the government thereof, repealing all conflicting laws, and declaring an emergency. [The bill provides for the care and custody of inebriates among other unfortunates, and appropriates $50,000 for the sanitarium.]

Mr. TAYLOR, a bill [S. 131] for an act supplemental to the act establishing a reformatory institution for women and children, approved May 13, 1859. [It proposes an appropriation for the completion of said institution.]

Mr. BROWN, a bill [S. 132] to amend the twentieth section of the act of May 13, 1859, to establish a reformatory institution for women and children. [It provides that such persons may be admitted and detained till eighteen years of age.]

Mr. SCOTT, a bill [S. 133] to provide for a more extended and improved system of college and university education. [It proposes that the State University, the State Normal School, and the Purdue University shall constitute the Indiana University.]

Mr. FRIEDLEY of Scott, a bill [S. 134] for an act to create the Twenty-sixth Judicial District of the Court of Common Pleas, providing for the appointment of judge and prosecuting attorney thereof. [It makes Lawrence, Monroe and Morgan counties to constitute the Twenty-sixth District.]

Mr. GOODING, a bill [S. 135] for an act defining what county shall constitute the Thirtieth Judicial Circuit. [The county of Vanderburgh.]

Mr. THOMPSON, a bill [S. 136] pertaining to division walls and digging cellars in cities and towns where there is property adjoining belonging to another person.

Mr. HOUGH, a bill [S. 137] for an act to fix the time for holding the Courts of Common Pleas in the Eleventh Judicial District, and repealing all conflicting laws. [Hancock, Henry and Madison counties are affected by this bill.]

Mr. TAYLOR. A bill [S. 138] limiting actions founded on judgments or decrees of courts to ten years, and declaring the act a statute of repose.

Mr. BEARDSLEY. A bill [S. 139] for an act to enable railroad companies to alter their lines in certain cases and declaring an emergency.

Mr. HOWARD, a bill [S. 140] to amend the act relating to wills.

HOUSE BILLS ON THE FIRST READING.

The following described bills from the House of Representatives were read the first time and severally, passed to the second reading.

The bill [H. R. 6] creating the Indiana Centennial Association, was read the first time.

The bill [H. R. 35] to amend the general practice act of June 17, 1852, in section 90.

The bill [H. R. 36] to amend sections 1 and 6 of the Franklin Insurance Company's charter.

No. 59. to amend the act providing for the election or appointment of Supervisors of Highways.

The bill [H. R. 70] to enable counties bordering on State lines or rivers forming boundaries to aid in the construction of railroads in the counties opposite.

The bill [H. R. 71] to amend section 60 of the act to repeal all laws in force for the incorporation of cities, approved March 14, 1867.

The bill [H. R. 114] to amend section 1 of the act of March 1, 1853, authorizing the construction of mill dams.

The bill [H. R. 134] to fix the time of holding Courts in the Twelfth Judicial Circuit.

The bill [H. R. 137] to revise, simplify and abridge the rules of pleading and practice.

The bill [H. R. 139] relating to expenses incurred by one county on account of changing venue from another.

The bill [H. R. 144] to provide for the crossing of railroads, keeping in repair such crossings, and for the expense thereof.

The bill [H. R. 155] providing for a general system of common schools in cities of 8,000 inhabitants and over.

The bill [H. R. 162] to authorize cities to correct erroneous description of real estate liable to city taxes, etc.

The Senate then adjourned till Monday at two o'clock p. m.

THE

BREVIER LEGISLATIVE REPORTS

THIRTEENTH VOLUME.

INDIANA LEGISLATURE.

HOUSE OF REPRESENTATIVES.

SATURDAY, December 7, 1872.

The House met at nine o'clock, a. m.

The prayers by the Rev. Samuel Cornelius, pastor of the Garden Church of this city.

On motion of Mr. THOMPSON, of Elkhart, the reading of the journal of yesterday, was dispensed with.

REPORTS FROM THE JUDICIARY COMMITTEE.

Mr. WALKER, from the Committee on the Judiciary, returned Speaker Edward's bill [H. R. 148] defining certain felonies, and prescribing punishment therefor, compelling parties engaged therein to testify against others than themselves, declaring contracts with respect thereto, void, etc. [It provides that any city officer, township trustee, county commissioner, or any other person holding a lucrative office, who may be interested in any contract for the construction of a school house or any public building, or who may receive any present, drawback, etc., on such contract, on conviction thereof, shall be deemed guilty of a felony, fined from $100 to $5,000, and imprisoned from two to ten years.] The Committee reported the bill back to the House without amendment, and recommended its passage.

It was ordered to the engrossment.

Also, Mr. Givan's petit jurors' selection bill [H. R. 171]; also, Mr. Kimball's bill [H. R. 152] to amend section 25 of the railroad corporation act of May 11, 1855.

Both were ordered to be engrossed, and the latter was amended by adding an emergency clause.

Mr. BUSKIRK returned Mr. Kimball's railroad act amendment bill [H. R. 151], recommending its passage.

On motion of Mr. KIMBALL. it was amended by adding an emergency.

It was ordered to be engrossed.

Mr. WILSON, of Ripley, returned Mr. Brett's bill [H. R. 170] to amend sections 157 and 654 of the practice act, with amendments. [The matter regulates attachments against absconding debtors. The amendments strike out and insert: "Except on the attachment; and provided, further, if the demand is not due the court shall adjudge the interest at the rate of six per cent. till it becomes due, etc.; and provided that if the demand shall be due at the time of the judgement, the plaintiff shall have judgment for the full amount." He also added an emergency clause.

The amendments were adopted and the bill engrossed.

Also, Mr. Walker's dentistry regulation bill [H. R. 159], with an amendment striking out that portion which might affect those now in the practice of dentistry; and so amended the committee recommend its passage.

The amendment was rejected, and then, on the motion of Mr. KIMBALL, the bill was indefinitely postponed.

Mr. CAUTHORN also returned Mr. Speaker Edwards' bill [H. R. 149] to amend sections thirty-nine and one hundred and thirty-one of the criminal practice act of

June 17, 1852, recommending that it be laid on the table, and expressing the opinion that those sections as they now stand are all that is necessary on the subject.

The report was concurred in.

Mr. OGDEN, from the same committee, reported the bill [H. R. 135] to amend the act providing for the redemption of real estate sold under execution, with the recommendation that it be indefinitely postponed.

The report was concurred in.

Also, Mr. Wilson of Ripley's bill [H. R. 179] to amend section one of the practice act, with the recommendation that it pass.

It was ordered to be engrossed.

Also, Mr. Gronendyke's bill [H. R. 125] to amend the act providing for the calling of special sessions of boards of county commissioners, with the recommendation that it be indefinitely postponed.

The report was concurred in.

Mr. MILLER returned Mr. Cauthorn's Legislative Journal bill [H. R. 167] with an amendment providing a penalty of $50 to $500 for the clerk's failure to return the original manuscript to the office of the Secretary of State.

The amendment was adopted, and the bill was ordered to be engrossed.

Also, Mr. Lenfesty's bill [H. R. 136] to amend section 647 of the practice act, adding an emergency clause.

The amendment was adopted, and the bill was ordered to be engrossed.

Mr. SHIRLEY, from the same committee, reported back Mr. Gregory's bill [H. R. 145] to amend the act providing for the opening of highways, with the recommendation that it lie upon the table.

The report was concurred in.

Also, Mr. Isenhower's bill [H. R. 175], relating to mortgages on real estate, with the recommendation that it lie upon the table.

The report was concurred in.

Mr. JOHNSON returned Mr. Butterworth's bill [H. R. 3] to repeal the corporation drainage act, and the act supplemental thereto of February 3, 1871, with amendments, striking out section 3, and inserting: all companies now organized under said act whose main line is ten miles or less in length may complete the works for which they are organized; and adding a clause of emergency recommending its passage.

The amendments were concurred in, and the bill was ordered to be engrossed.

Mr. JOHNSON moved that the further consideration of the bill be postponed and made the special order for Monday, two o'clock, p. m.

Mr. KIMBALL suggested Wednesday.

The SPEAKER. It will be on its passage when it comes up again—better take its place in the calendar.

OTHER COMMITTEE REPORTS.

Mr. EDWARDS, of Lawrence, from the Committee on the Organization of Courts, returned Mr. Wood's bill [H. R. 180] to abolish the grand jury system, reporting a motion that it be laid on the table.

The report was concurred in.

Mr. CLAYPOOL, from the same committee, returned Mr. Wilson of Ripley's first Judicial Circuit Court bill [H. R. 177], recommending its passage.

It was ordered to be engrossed.

Mr. SATTERWHITE, from the Committee on Banks, returned Mr. Riggs' bill [H. R. 198] to amend sections 15, 19, 21, and 49 of the act of May 12, 1869, providing for the organization of savings banks and the safe and proper management of their affairs, recommending its passage.

It was ordered to be engrossed.

Mr. SATTERWHITE stated that the single object of the bill is to make the statutes harmonize with the holiday provisions of Mr. Buskirk's bill [H. R. 6], which will become law—so that all notes, etc., falling due on those newly made holidays shall be deemed and treated as due the day previous—and so that business men and bankers may have equal chance with others to observe those days.

PER DIEM BILL.

Mr. WOODARD, from the Committee on Fees and Salaries, returned Mr. Wilson of Ripley's bill [H. R. 73], fixing the per diem and mileage of members of the General Assembly (88); members providing their own stationery, recommending its passage.

The question being on the third reading:

Mr. RENO said: With all due deference for the opinions of my brother Representatives who differ with me as to the merits of this bill, I hope they will pardon me for saying, for I say it not in the spirit of offense, but give it as my honest conviction, that it is unjust and impolitic for the members of this House to attempt or even to advocate the passage of this bill in the present session. And for this reason the constitution provides that if the General Assembly shall pass a law increasing their own pay, it shall not take effect during the session in which it was passed. Now it is clearly evident to every reflecting mind, that the true intent and meaning of this section in the Constitution was to protect the people from unscrupulous

legislation on this very subject. So that if members of the General Assembly voted themselves additional pay before they could reap the benefits of their own act, it would have to be submitted to the people for their confirmation or rejection. Governor Baker, who has so faithfully watched over the interests of the State, believing that he could further those interests by convening the Legislature, issued his proclamation for a call session. In obedience to that call we are now in session. An emergency has called us together to protect the interests of the State. But we take advantage of that emergency and are trying to pass a bill through this session, and expect to reap the benefits of our own act in the next session, in direct violation of the spirit of the Constitution. Mr. Speaker, when our charitable institutions are amply provided for, and when there is money enough in the common school fund to give all the children in the State of Indiana six months' schooling in the year, instead of three as it now is, then I might vote for a bill increasing our own pay, but not until then. It is asserted by the friends of this bill that it will bring a higher order of political or statesmanlike talent into these legislative halls. I will admit that if the General Assembly raise their pay so as to cause men to seek for the office for its benefits, that, in all all probability, it may bring into these legislative halls a purer and more brilliant article of political gas. But as to its bringing a higher order of patriotism and practical common sense. I have my sincere doubts; therefore I hope the bill will not pass.

Mr. WILLARD demanded the previous question, but withdrew it at the request of

Mr. WOOLLEN. I am not unwilling, Mr. Speaker, to take my part of this responsibility; and I desire to say distinctly that I am in favor of this bill, and I should be more in favor of it were it for $10 a day. If the Legislature do not put a proper estimate upon its services the people will not. The people should know that gentlemen can't afford to come to the Legislature if it is simply a question of money. And it is simply a question of honor or a question of pay. If it is a question of honor alone, let us come in here, pay our own expenses and go out with credit and honor. But if it is a questlon of pay as well, the State is able to pay and she ought to pay well. With regard to the objects of this special session, called by the Governor for special public emergencies, is it not a fact that the Governor has called our attention to his own compensation and the salary of his successors? And we have already recommended a bill for the Governar's benefit, and another to raise the salary of his successors. Is it possible, that, because we are afraid of some little delicacy in this matter, we will all say we are five dollar men? Sir, a clerk in any dry goods store may get as much. Who that has any business at all but can do better for himself than to come here for five dollars a day? It was well remarked in a little circle last night that members of the Legislature ought to be regarded at least as gentlemen—when they come here they should be expected to take life easy enough at least to live in a good house. They should not be compelled to go to the outskirts of the city to find places of living where they may avoid going into debt. I say again, that the State is able to compensate men for their services here. As for myself, I did not ask to come here, but was sent here against my wishes; and I put myself upon my inalienable rights; and if those who sent me here do not want me again, let them send somebody else. Then let us put such a value upon our services as will be sufficient to make them respectable. For it is becoming a matter that the people of the country are laughing at—so that a member of the Legislature is some man you have got to run down—as some man who can't earn a living at home, and comes here as a matter of makeshift.

VOICES: "Question—question."

The vote was then taken resulting—yeas 41, nays 45—as follows:

YEAS—Messrs. Anderson, Baker, Bowser, Cauthorn, Cobb, Coffman, Cole, Cowgill, Durham, Edwards, of Lawrence, Gifford, Gregory, Gronendyke, Hedrick, Henderson, Isenhower, Johnson, Jones, Kimball, Lent, Martin, Miller, Odle, Offutt, Ogden, Peed, Richardson, Riggs, Rumsey, Shirley, Spellman, Strange, Thompson, of Spencer, Walker, Wesner, Willard, Wilson of Ripley, Wood, Woodard, Woollen and Mr. Speaker—41.

NAYS—Messrs. Baxter, Billingsly, Branham, Brett, Broadus, Butterworth, Butts, Clark, Claypool, Crumpacker, Dial, Eaton, Ellsworth, Eward, Furnas, Givan, Glasgow, Glazebrook, Goble, Goudie, Hatch, Heller, Hollinsworth, King, Kirkpatrick, Lenfesty, McConnell, McKinney, Mellett, North, Prentiss, Reeves, Reno, Rudder, Satterwhite, Schmuck, Scott, Shutt, Stanley, Teeter, Tingley, Thompson of Elkhart, Troutman, Whitworth and Wilson of Blackford.—45.

So the bill was rejected.

Mr. RUMSEY, from the Committee on Rights and Privileges, returned the bill [H. R. 132] defining wife whipping, penalty, etc., with a motion that it be referred to the Judiciary Committee; and also Mr. Wesner's liquor license law amendment bill [H. R. 156] with a motion to refer it to the Committee on Temperance.

The reports were concurred in.

Mr. OGDEN, from the Committee on Corporations, returned Mr. Thompson of Elkhart's bill [H. R. 105] to amend section eleven of the manufacturing and mining corporations act of May 25, 1852, with an amendment by way of substitute, viz: a bill [H. R. 203] supplemental to said act of May 25, 1852, which was passed to the second reading.

Mr. RICHARDSON, from the Committee on Corporations, returned Mr. Butterworth's Notre Dame charter amendment bill [H. R. 145], with a motion that it be laid on the table.

Mr. BUTTERWORTH moved that it be referred to the Judiciary Committee.

It was so ordered.

Mr. GIFFORD, from the Committee on Cities and Towns, reported back, with the recommendation that it pass, Mr. Baker's bill [H. R. 174] to amend the act for the incorporation of cities and towns.

It was ordered to the engrossment.

Mr. JOHNSON, from the Committee on Public Expenditures, returned the claims of Judson Applegate, Bernard Daily, and others, for compensation as witnesses before a committee of this House, with a motion for an order that they be referred to the Committee on Ways and Means, with instructions to put the said allowance into the specific appropriation bill.

Mr. BROADUS returned his Sixth District Common Pleas Court bill [H. R. 172] recommending its passage.

It was ordered to be engrossed.

Mr. BAXTER submitted a preamble and concurrent resolution for the reward of a thousand dollars to any architect who shall present to this General Assembly a plan and specifications for the construction of a new capitol—the same to be paid only to the architect whose plan shall be accepted; and that a joint committee of three on the part of the House, and two on the part of the Senate, be appointed to receive such plans and specifications and present them to the General Assembly at the regular session of 1873; provided, that no payment shall be made for any plans or specifications except such as shall finally be adopted.

Mr. BAXTER said as it was expected that some steps would be taken at the next session for a new State House, this is the best thing we can do to show what will be the expense of the new capitol.

Mr. RICHARDSON. I think it is useless. In the first place, no respectable architect will draw a plan for such an extensive building without pay. I understand it is a rule with architects. But in addition to that objection the time is too short.

The resolution was adopted.

The SPEAKER took up the call by counties and districts for

NEW PROPOSITIONS.

Mr. GIFFORD introduced a bill [H. R. 204] to legalize sales of real estate by guardians, under orders defective in not prescribing notice and without finding that the interests of wards would be promoted by dispensing with such notice, etc.

Mr. ELLSWORTH introduced a bill [H. R. 205] to divide the State into Congressional Districts.

It was referred to the Committee on Elections.

Mr. CAUTHORN submitted a resolution (which was adopted) that the principal Secretary of the Senate and the principal Clerk of the House of Representatives shall be allowed $150 each for indexing and superintending the printing of the journals of the two Houses of the General Assembly; and that the Committee on Ways and Means be instructed to put said allowance in the specific bill.

Mr. KING presented a claim, and also a communication from the President of the Terre Haute Railroad Company, which were referred without reading—the former to the Committee on Claims, and the latter to the Committee on the Judiciary.

Mr. EDWARDS, of Lawrence, introduced a bill [H. R. 206] to amend section one of the act to organize a Supreme Court and prescribe certain duties of the Judges thereof, approved May 13, 1842. (The Supreme Court shall consist of five Judges, three of whom shall form a quorum.)

It was referred to the Committee on the Organization of Courts.

Mr. SATTERWHITE introduced a bill [H. R. 207] to provide for the semi-annual collection of taxes (one-half on the first of January and the other on the first of July; provided that road taxes shall be paid in full on the first of January.)

It was referred to the Committee on Ways and Means.

Mr. SHIRLEY introduced a bill [H. R. 208] to legalize the acts of the Trustees of the town of Mooresville.

It was referred to the Committee on Corporations.

Mr. SHIRLEY introduced a bill [H. R. 209] relating to fencing railroads and placing cattle guards thereon. The object of the bill is to place the railroad company and the owners of land along their lines in the same position with regard to fencing, that the law places persons building and keeping in repair a partition fence

It was referred to the Committee on Railroads.

Mr. BUTTS introduced a bill [H. R. 210] defining it as a misdemeanor to keep a house of ill fame, to rent or lease a house to be used as a house of ill fame, and prescribing certain rules of evidence in the prosecution of such offenses.

It was referred to the Committee on Reformatory Institutions.

Mr. BAXTER introduced a bill [H. R. 211] to amend the twentieth section of the act approved May 13, 1869, to establish a female prison and reformatory institution for girls and women, etc.

Mr. BAXTER introduced a bill [H. R. 212] supplemental to the act to establish a reformatory institution for girls and women.

It was referred to the Committee on Reformatory Institutions.

TWENTY-SEVENTH (CRIMINAL) JUDICIAL CIRCUIT.

Mr. GLASGOW returned from the Committee on the Organization of Courts Mr. Willard's bill [H. R. 61] to repeal the act of April 23, 1869, to create the Twenty-seventh (Criminal) Judicial Circuit, with amendments, which were adopted.

Mr. WILLARD. This is a bill repealing the act establishing a criminal court for the counties of Clark and Floyd. It is the almost unanimous opinion of the people of those counties that that court is unnecessary. And it being necessary that they should be able to remove the business of that criminal court to the Civil Circuit Court in time for the January term, I move to suspend the restrictions that the bill may be considered on the third reading.

Mr. BAKER, having presented remonstrances against the passage of the bill, moved that its consideration be either postponed till next week, or that it be laid on the table; and (Mr. Willard consenting) it was laid on the table, taking its place in the calendar.

Mr. Anderson obtained leave of absence till Tuesday, Mr. Woollen till Wednesday, and Mr. Schmuck till Tuesday.

Mr. BILLINGSLY moved the adjournment, and, according to the previous order, the House adjourned till Monday, two o'clock p. m.

THE

BREVIER LEGISLATIVE REPORTS

THIRTEENTH VOLUME.

INDIANA LEGISLATURE.

IN SENATE.

MONDAY, December 9, 1872.

The Senate met at two o'clock pursuant to adjournment. President Friedley in the chair.

On motion, the reading of the journal was dispensed with.

A FIFTH SUPREME JUDGE.

The PRESIDENT announced the special order, Mr. Taylor's bill [S. 51] to amend the act of May 13, 1852, to organize a Supreme Court and prescribe the duties of the Judges thereof. [It proposes to make the Supreme Court to consist of five Judges, three of whom shall constitute a quorum.]

It was read the second time.

A quorum not being present, the bill was passed over for future consideration.

The bill submitted by Mr. Hough, with the minority report of the Judiciary Committee on the same subject, which was a part of the special order, was taken up. [The bill located the additional district in the eastern part of the State, instead of the northern, as was provided in the bill reported by the majority]—it being the bill [S. 52] dividing the State into five Judicial Districts. The minority report was read by the Secretary and the substitute for the bill reported by the minority—the question being on concurring in the report.

Mr. HOUGH understood that the minority report was in strict compliance with the Constitutional requirement as set forth in section three of article seven; and that the majority report is in conflict with the requirement, because the districts formed by the majority of the Committee are not composed of contiguous territory. The lines of the districts when drawn on a map, look like a badly stove up boot, while the division of the territory proposed by the minority, looks on the map as if the districts were as perfectly formed as they could be, as well as regards contiguity of territory as equality in the number of inhabitants. Parties in the eastern and middle portion of the State under the bill reported by the majority desiring to consult a Supreme Judge in vacation, would have to travel to Vevay in the extreme south, or to Fort Wayne in the north part of the State, or through Indianapolis to Bloomington. He urged the adoption of the minority report. The bill recommended by the majority looked as if there was some gerrymandering in it. He would not charge that any such thing was intended, but it would give rise to suspicions that such was the motive in framing it. For the reasons adduced he urged the passage of the bill reported by him.

Mr. DITTEMORE moved that the minority report be laid on the table. The yeas and nays were called, and the vote resulted—yeas, 20; nays, 16.

So the motion was agreed to.

The question now recurred upon the adoption of the majority report, which recommends the passage of the bill [S. 52] which divides the State as follows, by counties:

First District—Monroe, Owen, Clay, Parke, Morgan, Sullivan, Greene, Knox, Daviess, Martin, Dubois, Pike, Gibson, Posey, Vanderburg, Warrick, Spencer, Perry and Orange.

Second District—Rush, Switzerland, Dearborn, Brown, Lawrence, Crawford, Harrison, Floyd, Clarke, Scott, Jefferson, Ripley, Decatur, Bartholomew, Jackson, Washington and Jennings.

Third District—Tippecanoe, Johnson, White, Warren, Fountain, Montgomery, Clinton, Boone, Tipton, Hamilton, Marion, Vermillion, Hendricks and Vigo.

Fourth District—Allen, Whitley, Huntington, Wells, Adams, Grant, Blackford, Jay, Delaware, Randolph, Howard, Madison, Hancock, Henry, Fayette, Union and Franklin.

Fifth District—Lake, Benton, Porter, La Porte, St. Joseph, Elkhart, Kosciusko, Marshall, Starke, Jasper, Newton, Pulaski, Fulton, Wabash, Miami, Cass, Carroll, Lagrange, Steuben, Ke Kalb and Noble.

The bill also provides for the appointment of an additional judge for the Fifth District.

Mr. DAGGY spoke in favor of concurring in the report of the majority of the committee. He said that the report of the Clerk of the Supreme Court showed that the business of the court was now behind about four years. More than that, the court now consists of four judges, and a fifth one was necessary to prevent a tie in rendering decisions. He defended the division of the State made by the majority, and urged concurrence in it.

The report was concurred in, and the bill was read the second time by sections.

Mr. THOMPSON moved to amend by substituting another apportionment.

Mr. ROSEBRUGH moved that the amendment be laid on the table.

The motion was agreed to.

Mr. DAGGY moved to suspend the constitutional restriction that the bill may be read the third time now and put upon its passage.

The motion was agreed to by yeas 34, nays 4, and the bill passed, yeas 30, nays 7.

On motion by Mr. O'BRIEN, the constitutional restriction was dispensed with by yeas 34, nays 2, and the bill [S. 51] to amend section one of an act entitled an act to organize a Supreme Court, and prescribing certain duties of the Judges thereof, approved May 13, 1852, was read the third time, and passed—yeas 36, nays 1.

AGENT OF STATE.

Mr. BROWN, in compliance with a resolution from the Senate, returned the bill [S. 21] repealing the act of June 17, 1852, to create the office of State Agent, and prescribing that the duties of that officer shall be performed by the Secretary of State. The committee recommended that the bill lay on the table, and that an accompanying bill be passed by the Senate. It is entitled, "A bill [S. 141] in relation to the funded debt of the State of Indiana therein mentioned."

[The bill abolishes the office of State Agent after the 10th of February, 1873, and provides that the business connected with the canal claims shall be transacted at the office of the Treasurer of State after the 1st of February, 1873. It also provides for the appointment of a State Agent at New York City for the transaction of business relating to the war loans of the State, and such other business of the State as is required by law to be transacted in New York, whose compensation shall not exceed $500 per annum, and who shall give bonds for the faithful performance of his duties.]

Mr. BROWN said: It is an exact copy of a bill prepared by Governor Baker, and has been examined by several gentlemen thoroughly acquainted with the subject matter thereof. It provides that the acting agent shall receive no more than $500 per annum. Mr. Brown urged its immediate passage.

The report of the committee was coucurred in.

Mr. GREGG moved to dispense with the Constitutional restriction that the bill [S. 141] may be read the second time and put upon its passage now.

The motion was agreed to.

In reply to questions of Mr. HARNEY, Mr. BROWN stated that the bill leaves the State officers to drive the best bargain they can with some one in the city of New York to perform what little duties still appertain to the office of State Agent, but in no case shall the State officers allow their appointee more than $500 a year.

The bill then passed—yeas, 36; nays, 0.

PETITIONS.

Mr. THOMPSON presented a petition on the subject of temperance, which was referred to the appropriate committee without reading.

REPORTS FROM COMMITTEES.

Mr. OLIVER, from the Committee on Public Buildings, returned the bill [S. 87] ceding to the United States jurisdiction over certain lands in Evansville on which to erect public buildings, with a verbal recommendation that it do pass, but he withheld it till it shall be presented with a written report.

THE DIVORCE LAW.

Mr. HALL, from the Committee on Rights and Privileges of the Inhabitants of the State, reported back the memorial of the yearly meeting of the Society of Friends, on the subject of the divorce law, with a bill, whose passage was recommended. [The bill provides that divorces may be granted for the following causes: 1. Adultery. 2. Abandonment for three years. 3. Cruel and inhuman treatment of either party by the other.]

On motion the report was laid on the table.

Mr. WILLIAMS moved that the vote be reconsidered.

Mr. BROWN moved (ineffectually) to lay the motion on the table.

The motion to reconsider prevailed, and the motion to lay the report on the table was lost.

The report of the committee was then concurred in.

CONSTITUTIONAL CONVENTION.

Mr. GREGG introduced a bill [S. 142] providing for getting the sense of the qualified voters of the State on the calling of a committee to alter or amend the constitution of the State, the vote to be taken on the first Tuesday in October, 1874, which was read the first time and passed to the second reading.

WABASH AND ERIE CANAL.

On motion by Mr. BROWN, the order of business was suspended and the joint resolution [H. R. 2] agreeing to and adopting an amendment to the constitution, by adding to the tenth article a section in relation to the debt charged upon the Wabash and Erie Canal, prohibiting the recognition by the General Assembly of any liability on the part of the State to pay the canal certificates issued under the provisions of the Butler bill, was taken up.

Mr. DAGGY made an ineffectual motion to lay the resolution on the table—yeas 5, nays 30.

Mr. DAGGY was in favor of the passage of the joint resolution in a certain contingeney. If the Legislature should call a Constitutional Convention, it would be necessary, and if the Legislature should agree to propose several other necessary amendments to the Constitution this one should he stopped just where it is. He opposed the adoption of the resolution for the simple reason that, if adopted, it would preclude the presentation of any other amendments. He was in favor of the adoption of an amendment of the character of that proposed by the resolution, but there were other important amendments to the Constitution required, and he wanted them all embodied in a series so that they might be acted on by the people at once.

Mr. BROWN said he, for one, was not willing to take the responsibility of delaying action on the adoption of this resolution any longer. The Senate had passed a bill which would be made a pretext on the part of the holders of the canal scrip for their payment in full. Hence prompt action was necessary on the part of the General Assembly to give the people an opportunity to say conclusively and for all time that neither they nor their successors should be pestered with this vexatious question any longer. If the programme of the Senator from Putnam [Mr. Daggy] was adopted, it would take three or four years to pass it, whereas if the Senate adopted this resolution now, it could be passed within the next thirty or forty days, and the matter would be settled forever.

Mr. GOODING did not understand that anybody on the floor of the Senate was opposed to the resolution, but he concurred with the Senator from Putnam (Mr. Daggy) in believing that there were other important amendments to the constitution required, and if this resolution was passed constitutional restriction would prevent all further amendments for several years except through the medium of a constitutional convention. For this reason he deprecated hasty action on the resolution at this time, and moved that the resolution be made the special order for next Wednesday at two o'clock p. m.

Mr. WILLIAMS thought if the resolutions were passed at once, the Governor could order a special election, and it might be over before the close of the present session. That would leave the way open to propose as many amendments at the next session as may be desired.

Mr. DWIGGINS moved to lay Mr. Gooding's motion on the table.

The motion was agreed to.

Mr. DWIGGINS then demanded the previous question on the adoption of the resolution.

The demand was seconded by the Senate and under its operat on the joint resolution was finally passed by yeas 35, nays [illegible].

STATIONERY.

Mr. GREGG offered a resolution which was adopted to furnish the President's Secretary with the same stationery as is and may be allowed to members.

NEW BILLS.

Mr. STEELE, by leave, introduced a bill [S. 143] for an act to restrain all pe-

sons under twenty-one years of age from making, assisting in making, vending or giving away intoxicating liquors in this State, which was read the first time and passed to the second reading.

Mr. O'BRIEN introduced a bill [S. 146] for an act to amend section four of the plank and gravel road assessment act, which was read the first time and passed to the second reading.

A motion to adjourn being made, and the yeas and nays demanded the vote resulted—yeas 9, nays 14.

No quorum voting—

Mr. HALL moved that the doorkeeper be sent for absentees—pending which—

The Senate adjourned till to-morrow at 10 o'clock.

THE

BREVIER LEGISLATIVE REPORTS

THIRTEENTH VOLUME.

INDIANA LEGISLATURE.

HOUSE OF REPRESENTATIVES.

MONDAY, December 9, 1872.

The House met at 2 o'clock, p. m., pursuant to adjournment.

On motion of Mr. LENFESTY, the reading of the journal of yesterday was dispensed with.

Mr. EDWARDS, of Lawrence, from the Committee on Elections, reported satisfaction that every member on the roll of the House of Representatives has been duly elected.

The report was concurred in by unanimous consent.

REPORTS FROM COMMITTEES.

Mr. WALKER, from the Judiciary Committee, reported the bill [H. R. 131] for the prevention of cruelty to animals, recommending its indefinite postponement, and reporting a substitute therefor—viz.: A bill [H. R. 212] for an act providing against cruelty to animals, and providing punishment therefor.

The report was concurred in and the substitute passed to the second reading.

Mr. WILSON, of Ripley, from the Committee on the Judiciary, returned Mr. Kimball's bill [H. R. 190] to amend sections 25 and 26 of the act regulating descents, and the apportionment of estates, approved May 14, 1852, recommending that it be indefinitely postponed, and reporting a substitute therefor, viz: a bill [H. R. 213] with similar title, recommending its passage.

Mr. WILSON of Ripley said the law now standing provides that where the husband or wife dies intestate, leaving no father, mother, or child, the whole shall descend to the survivor. The original bill provides in such cases that one-half of the property should go to the deceased party's heirs, and the other to the wife, provided the estate does not exceed $1,000. The committee raise this amount to $10,000. The present law is liable to objection, because if the husband dies leaving $100,000, having neither father, mother or child, the estate goes wholly to the wife—goes entirely into the family of a stranger to the husband's blood.

The substitute was passed to a second reading.

On motion of Mr. W. the substitute was laid on the table, and it was ordered that 200 copies thereof be printed.

Mr. W. also returned Mr. Pirimmer's bill [H. R. 202] to amend the coroner's act of 1858] recommending its indefinite postponement.

Mr. BUSKIRK. The bill provides that where a physician is called to attend a coroner's inquest in no case shall he receive more than $10 for his services. To this the committee submit their adverse report; and, accordingly, the bill was indefinitely postponed.

WIFE-WHIPPING A FELONY.

Mr. WILSON, of Ripley, returned Mr. Kimball's bill [H. R. 132] defining wife whipping and prescribing punishment therefor, recommending that it be indefinitely postponed, and expressing the opinion that there is ample punishment for this offence already provided by law.

Mr. KIMBALL. It seems to me that the present legal penalty for assault and battery is not sufficient for this offence, and I trust in the goodheartedness of members for their votes on this bill. I know the law should be more strict than it is. In the county of Marion there are numerous offences of this kind that are passed over too lightly or disregarded altogether. And I have a letter from the county of Bartholomew alleging a number of cases there, which the penalty for assault and battery can't restrain, and the result is the separation of the parties. So, if you punish this offence adequately the courts will not be burdened with applications for divorce. I think members ought to vote for this bill, especially those who are expecting to get wives; and if all such do not vote for it they ought to be obliged to remain bachelors all the days of their life.

Mr. SMITH proposed to amend by inserting the words: "No man shall be allowed to whip his wife unless she needs it."

Mr. WILSON, of Ripley. Gentlemen should not confound the administration of the law with the law itself. The law now provides fine and imprisonment for this offense; but this bill makes it a felony. Under this bill there would be no alternative but the offender must go to the penitentiary. We can't legislate perfectly with reference to moral conduct. But I do not see why it should be a greater offense for a man to whip his own wife, than to whip his neighbor's wife, or for the wife to whip her husband. And there are extenuating circumstances. A man may be guilty of assault and battery, and yet it may be that he should not go to the penitentiary. The Committee considered that a fine and six months' imprisonment might suffice for an offense so simple as that of assault and battery.

Mr. KIMBALL. In ninety-nine cases out of a hundred where a man whips his wife he ought to go to the penitentiary; and if we could go back, I would be glad to amend the bill so that none shall whip another's wife. But there need be no law to forbid the wife from whipping her husband, for that is never done unless he deserves it.

Mr. MILLER. It seems to me that reasoning in the report is sufficient—and that is, that the law as it now stands provides ample punishment. The law prescribes a fine of a thousand dollars and imprisonment in the county jail not exceeding one year. Now if the punishment was more severe than it is, the law could not be enforced. Again, the wife commonly must be the informer; and if she knew that the law would take her husband away so long she would never inform on him. Better to have the law reasonable, and leave a discretion as to the punishment to the court and jury. But the law is abused. Sometimes, for this offense, a justice will fine one dollar and costs. It might be a wise provision of law, that the offender should not be fined less than $25, and to make the least grade of imprisonment one year. But, after all, perhaps the best way to protect the wives would be to make a good temperance law; for it will be seen that, even in Marion county, very few whip their wives unless they are drunk.

Mr. BUSKIRK. This debate is assuming something of our school boy days, when we had the question: Which is the greater calamity, a smoking chimney or a scolding wife? I think it would evidently be a greater misfortune to the wife to be whipped, than to have her husband sent to the penitentiary. But this bill would send the villain to the penitentiary for his declaration of intention to whip. Seriously: the present legal penalties are severe enough, the remedy is not to be found in severer enactmennts.

Mr. BARRETT. I do not know but it is a fair bill, but I do not want the House to understand that there are so many cases of wife-whipping in my county.

Mr. KIMBALL. I wish to set myself right before the House so far as Bartholomew county is concerned. [He produced and read the letter referred to, dated at Elizabethtown, addressed to Mr. K., expressing a liking for his bill (H. R. 132), and praying for its passage, and stating that they have six wife-beaters living in that town; that one of them has been prosecuted before a justice of the peace, and he got off so easily that his wife would not live with him after; another man, etc.]

Mr. BARRETT. Elizabethtown is so near the county line that I am inclined to think that a part of that business must have been done in Jennings county.

Mr. WALKER. The gentleman from Marion says the operation of this bill will discourage applications for divorce. But I would ask that gentleman, soberly: are you willing to place it in the power of the wife, by her own testimony, to put her husband into the penitentiary, and thereby obtain a legal cause for divorce? She has but to swear that her husband has whipped her, and put him into the penitentiary. That, to my mind, is a serious thing—too much power to trust in her hands.

The bill was indefinitely postponed—yeas 47, nays 30.

REFUNDING TAXES.

Mr. MILLER, from the Judiciary Committee, reported back Mr. Richardson's bill [H. R. 157] authorizing the refunding of taxes collected in 1869 and 1870 on erroneous assessments of 1869, with a recommendation that it be indefinitely postponed.

On motion of Mr. OFFUTT, the report was laid upon the table to await the return of the author of the bill.

Mr. JOHNSON returned his bill [H. R. 112] to render wives competent to testify in actions brought for injury done to them, with an amendment inserting appropriately these words: "To the person or character of," so as to read, "For injuries done to the person or character of the wife." The amendment was adopted, and so the bill was ordered to the engrossment.

Mr. RIGGS, from the Committee on Claims, returned the claim of William Williams for $89 60, recommending that he be allowed $80, the amount of his claim less interest. He also recommended for the allowance of the usual pay for three committee room door keepers, from the organization of the House of Representatives.

Mr. SHUTT reported against the claim of Isaac Rubey, well digger, and in favor of the claim of Eliza Blake, for expenses incurred by her late husband on account of the Gettysburg Monumental Association.

Mr. COBB reported on the claim of Jonathan W. Gordon, recommending an allowance to him of $250; and he reported against the claim of Robert S. Taylor for expenses incurred by him in resisting the contest of William B. Walters for his seat in the House of Representatives of the last General Assembly.

These reports were severally concurred in.

COUNTY BUSINESS.

Mr. THOMPSON, of Elkhart, from the Committee on County and Township Business, returned the bill [H. R. 137] to prohibit Township Trustees from levying taxes on the inhabitants of incorporated towns, or on the real or personal property of said inhabitants situated therein, recommending its passage. He also returned Mr. Billingsley's bill [H. R. 133] prescribing the time for transacting road business by County Commissioners, and for the appointments of superintendent and physician for the poor (the road business at the regular sessions, and the appointments of superintendent and physician at the December session), and recommending its passage.

These bills were ordered to the engrossment.

STATE SOLDIERS' MONUMENT.

Mr. KIMBALL, from the special Committee on Indiana Soldiers' Monument returned bill [H. R. 124] to provide for the construction of a state monument to the memory of Indiana soldiers (in the Governor's Circle, Indianapolis, appropriating $100,000) with amendments. Add the following to the end of section seven: "Provided not more than one-third of the sum appropriated in this section shall be expended in any one year, and no portion of the same shall be drawn without the order of the Board of Managers, approved by the Governor; and provided further, that before any portion of said money shall be drawn by the Treasurer, there shall be subscribed and collected the sum of $50,000, as contemplated in section eight," and when so amended the Committee recommend the passage of the bill.

The amendments were adopted, and the bill ordered to be engrossed.

NEW PROPOSITIONS.

The SPEAKER took up the call by counties for bills and resolutions.

Mr. CLINE introduced a bill [H. R. 215] to create the [blank] judicial circuit, to authorize the appointment of a Judge and Prosecutor therein, etc., and to transfer the county of Union from the fourteenth to the fourth circuit. (To consist of Jennings, Bartholomew and Decatur.)

It was referred to the Committee on the Judiciary.

Mr. WESNER introduced a bill [H. R. 216] to make it a misdemeanor for a Prosecuting or District Attorney or any Deputy Prosecuting Attorney to receive any gift, bribe, reward or fee of any person charged with having committed any misdemeanor or violation of municipal law.

It was referred to the Committee on the Judiciary.

Mr. WILLARD presented a petition for repeal of the fee and salary act.

Mr. MARTIN submitted a joint resolution to instruct Congressmen for a law of Congress to give one hundred and sixty acres bounty to all soldiers and seamen of ninety days service in the late war of the rebellion, which was referred to the Committee on Federal Relations.

Mr. BUSKIRK submitted a preamble and concurrent resolution, reciting the Governor's recommendation for preserving and filing the original manuscripts of the journals of the two Houses of the General Assembly, and instructing the Secretaries and Clerks to have those

original manuscripts permanently bound and deposited in the office of the Secretary of State, and that copies thereof be made and furnished to the printer under the directions of the said Secretaries and Clerks.

It was adopted.

Mr. LENFESTY desired to move the reconsiderotion of the vote of last week, by which Mr. Rumsey's bill [H. R. 90] failed to pass. It would affect but few counties, and it might be applied very beneficially to some, as in the gentleman's [Mr. Rumsey's] county, where such undedicated grounds have been used for school house urposes.

Mr. RUMSEY added that his people have a school house erected on such ground worth six or seven thousand dollars.

The vote was reconsidered, and the bill restored to the calender.

Mr. CLARK submitted a resolution that the Judiciary Committee inquire into the expediency of abolishing the death penalty in this State, and substuting there- or imprisonment at hard labor for life, and report. etc. It was rejected, but subsequently the vote was reconsidered, and the resoulution referred to the Committee on the Judiciary.

Mr. HEDRICK presented a petition.

Mr. COBB introduced a bill [H. R. 217] to amend section six of the act of May 12, 1852, concerning promissory notes, etc. [Notes payable in bank, and notes by and between merchants, and none other shall be negotiable as inland bills of exchange.]

It was passed to the second reading.

Mr. WILSON, of Ripley, introduced a bill [H. R. 218] to amend section 208 of the practice act of June 18, 1852. [It respects the specifications regulating the change of venue.]

It was referred to the Committee on the Organization of Courts.

Mr. GLAZEBROOK introduced a bill [H. R. 219] to regulate the sales of drugs and medicines, and fixing a penalty for violation of the same.

It was referred to the Committee on the Affairs of Indianapolis.

Mr. JOHNSON introduced a bill [H. R. 220] to amend the first section of the act to organize a Supreme Court and prescribe the duties of the judges thereof, approved May 13, 1852. [Five judges and for dividing the State into five districts.]

It was referred to the Committee on Elections.

Mr. PEED introduced a bill [H. R. 221] to provide for the recording of certain leases of real estate therein mentioned, and prescribing penalties for violation of the provisions of this act.

It was referred to the Committee on the Judiciary.

Mr. BUTTS introduced a bill [H. R. 222] to suppress tippling houses; to regulate the sale, barter or giving away of intoxicating spirits; to punish drunkenness, prescribing peualties, etc. [Penalty for first offense a fine of $10, second offense $20, third offense $50 and imprisonment thirty days.

It was referred to the Committee on Temperance.

Mr. RIGGS introduced a bill [H. R. 223] defining what county shall constitute the Thfrtieth Judicial Circuit, the appointment of a judge thereof, fixing the time for holding court therein, etc. [County of Vanderburg, the Governor to appoint the judge.]

It was referred to the Committee on the Organization of Courts.

Mr. EDWARDS of Vigo (Mr. Johnson in the chair), introduced a bill [H. R. 224] to amend the first section of the act of January 14, 1846, to incorporate the Female Seminary of St. Mary's of the Woods, in Vigo county, Indiana.

TWO PER CENT. LAND SALES CLAIM.

The SPEAKER announced the consideration of the Senate joint resolution No. 2, in relation to the two per cent. claims of Ohio, Indiana and Missouri, now pending before Congress, on the sale of the public lands and reservations—instructing and requesting Congressmen to vote for the passage of the bill.

It was adopted on the part of the House of Representatives—yeas, 70; nays, 0.

UNSURRENDERED STATE BONDS.

The SPEAKER took up and announced the consideration of the bill [S. 85] to provide for the payment of sundry bonds or stocks of the State, issued prior to the year 1841 (to the extent of 191 bonds), on the first reading.

Mr. KIMBALL. Seeing that it is similar to the bill of the House, which is made the special order for to-morrow, I move to suspend the restrictions that it may be advanced and considered at the same time.

The motion was agreed to by yeas and nays, and the order made accordingly.

The House then adjourned.

THE

BREVIER LEGISLATIVE REPORTS.

THIRTEENTH VOLUME.

INDIANA LEGISLATURE.

IN SENATE.

TUESDAY, December 10, 1872.

The Senate met at 10 o'clock, a. m., pursuant to adjournment.

On motion of Mr. ORR the reading of the journal was dispensed with.

Mr. THOMPSON presented a petition for a rigid temperance law, which was referred to the Committee on Temperance.

RAILROAD TARIFF.

Mr. WILLIAMS called up the special order for this hour, being the bill [S. 6] to fix the freight and passenger tariff for railroads doing business in this State; and also the bill [S. 115] to prevent extortionate charges for and unjust discriminations by railroad companies and other common carriers in this State. The first named bill having been read the second time heretofore—bill [S. 115] was read the second time so that both bills may be considered on the same reading.

Mr. BROWN said it enforces the rights of the people against common carriers, and that is all there is in it.

The Senate refused to lay the bill on the table.

Mr. SCOTT thought that the title of the bill [S. 6] should be changed to something like this: "A bill to provide for making law suits between the people and railroad corporations and other common carriers in this State." A law might as well be passed proposing to regulate the price of labor and the price of meat. The principle of the bill is wrong, for whenever the price of carrying is higher than the people can afford, the carrying will be done by horses or oxen, or the evil will be corrected in some other way. The bill proposes an innovation in the practice in this State, and an entire change, involving too much risk to the industry and progress of this State. He moved that the bill [S. 115] be printed.

Mr. ORR hoped the bill would pass, but desired to see it printed.

Mr. HOUGH opposed the motion to print, because he should oppose the passage of the blll.

Mr. NEFF was confident there is no wrong demanding a remedy more imperatively than this thing of the freight and passenger charges of railroad companies.

Mr. BROWN thought Governor Baker was a pretty good lawyer. His excellency put in about three weeks in getting up this bill. But it seems that it strikes at these tender plants—these railroad companies—that we ought not to put our hands upon it at all. The bill [S. 6] is a bill of doubtful constitutional character, and no lawyer that has examined it but has expressed grave and doubtful question as to whether it could be upheld in the courts of justice.

Mr. ROSEBRUGH regarded Governor Baker as one of the best lawyers in the State, and would be very slow to object to a bill proposed by his excellency without careful consideration of its provisions. He was for every reform measure before this Legislature, and thought it important that this General Assembly should give early consideration to all such propositions. Especially should an effort be made

to regulate railroad charges in this State at an early day; and for the reason that it would delay the consideration of this bill, he opposed the motion to print.

The motion was agreed to.

Mr. HARNEY urged careful consideration of this matter, and desired to avoid hasty legislation in the consideration of this as well as every other measure that comes before the General Assembly. A railroad should not charge more from any competing station, or from the terminus of the road, than from or between any intermediate point or points on the road. The origin of one third of the railroads now proposed to be built arose from a desire to make important towns competing points.

Mr. WILLIAMS explained the provisions of the bill; cited instances of extortion in charges for the transportation of freights short distances in this State, and insisted that his bill [S. 6] would remedy this evil. The bill did not attempt to control the rates of charges for through rates.

Mr. WADGE was in favor of any action that will protect the people against monopolies. But it is a question whether this bill would not injure the people, for if it should be impossible for railroads to furnish transportation between local stations, of course the people would be injured by being deprived of railroad facilities. He had taken pains to furnish himself with some facts and figures on this subject, which he recited.

Mr. HALL referred to the Ohio and New York laws on this subject, but his remarks were not heard at the reporter's desk.

Mr. SCOTT moved to make the bill of Senator Brown [S. 115] the special order for Friday at ten o'clock.

Mr. STEELE moved to amend by including in the special order the bill of Senator Williams [S. 6].

A long debate ensued, not only upon the question, but running off into desultory discussions as to the merits of the two bills, and the subject of railroad legislation generally.

Mr. WILLIAMS moved (ineffectually) to lay the amendment upon the table.

The question being upon Mr. Steele's motion, the yeas and nays were demanded and the vote resulted—yeas 23, nays 20.

Mr. BROWN moved to make the bill [S. 6] a special order for Thursday.

The PRESIDENT ruled that the motion was not in order.

Mr. BROWN then moved to amend the pending question by making the bill [S. 115] a special order for Thursday.

The PRESIDENT ruled that this motion was also out of order, and a debate followed on rules of order.

The motion of Mr. Scott, as amended by Mr. Steele, to make the two bills a special order for Friday, was then rejected—yeas 16, nays 26.

Mr. BROWN moved to make the bill [S. 6] a special order for Thursday morning.

Mr. STEELE moved to make the bill [S. 115] a special order for the same hour.

Mr. BROWN moved to table the amendment.

It was agreed to—yeas 37, nays 4.

Mr. OLIVER moved to adjourn.

The yeas and nays were demanded, and Mr. Oliver withdrew the motion.

Mr. HOUGH moved to make the bill a special order for Thursday at two p. m.

Mr. WILLIAMS moved to lay the motion on the table.

The motion was agreed to.

The original motion to make the bill the special order for Thursday morning was then put and carried.

Mr. ORR moved that bill 115 be made the special order for Thursday at two p. m.

This motion was agreed to.

Mr. OLIVER renewed his resolution to adjourn, which was agreed to, and so the Senate adjourned till two p. m.

AFTERNOON SESSION.

The Senate met pursuant to adjournment.

THE DRAINAGE LAWS.

The PRESIDENT announced the special order for the hour being Mr. Dwiggins' bill [S. 1] for an act to repeal an act entitled an act to authorize and encourage the erection of levees, dykes and drains, and the reclamation of wet and overflowed lands by incorporated companies, and to repeal all former laws relating to the same subject, which went into effect without executive approval, May 22, 1869; also an act to repeal an act supplemental thereto, approved February 23, 1871. The bill being on the second reading—

Mr. BROWN said he was in favor of the bill. He had all along been in favor of a fair draining law, but the end of the session was appoaching and he would rather have no bill at all than that one now in force. He should, therefore, favor the passage of the bill and hereafter legislation can be had which would give the State a good substantial draining law. Relying upon the professions of Senators from the northern part of the State that they will favor the enactment of a just

drainage law, he would favor the passage of this repealing bill, and therefore moved that it be considered as engrossed and read the third time now. But he withheld this motion for the present.

Mr. BOONE opposed the unconditional repeal of the drainage law of 1869. To repeal all drainage laws without a saving clause would work great injustice to many, and parties interested in a large amount of work in his county alone would be without a remedy in the courts. If their remedy in courts of justice is destroyed it is doubtful whether a new act would enable such persons to recover the rights they now have. He regarded the Chapman bill [S. 68] as being better than any bill on the subject that has ever yet been on the statute book, and hoped to see it passed. There were several lines of drains in Boone and Hendricks counties yet unfinished, and which would never be finished if the draining laws were repealed. He protested therefore against the repeal of these acts unless a new draining law was passed to take their place.

Mr. DITTEMORE offered the following amendment:

Amend section 2 by adding thereto the following words: "Provided that the existence and the rights, franchises and powers of all incorporated companies organized under said acts, or under any prior law of this State, repealed by said acts, the main line of whose contemplated work does not exceed ten miles in length, shall be saved, unimpaired and unaffected by this repealing act.

Mr. ORR favored the amendment.

Mr. SLATER would prefer seeing the Chapman bill passed before the bill under consideration shall be acted favorably upon.

Mr. WADGE desired to see this bill go through without any amendment. He had presented a petition here from twelve hundred citizens in his district praying for the unconditional repeal of the present drainage laws, and though he should vote for the amendment, it would be under protest, believing that the entire law should be swept from the statute book.

Mr. O'BRIEN, in order to do justice to his own constituents, who are interested in ditches with main lines more than ten miles long, offered the following amendment: Strike out "ten" and insert "sixteen." He did this in a spirit of compromise and concession. It is all wrong to give corporations unlimited power and control over real estate by reason of their assessments.

Mr. BOONE thought the amendment was not sufficient and would not provide for a remedy to parties aggrieved by the bill.

Mr. WADGE could pledge the support of Senators from the northern portion of the State for the Chapman bill, but the urgencies are so great that he asked the early passage of the pending bill.

Mr. O'BRIEN believed that the assessments should in no case exceed the actual cost of the improvement.

Mr. DITTEMORE accepted the amendment.

Mr. HUBBARD offered the amendment saying that if the bill was passed to repeal the act they would look out for themselves as against any claims of the Kankakee Draining Company on account of vested rights.

Mr. BOONE desired the repeal of the thirteenth section of the law of 1869 and the entire law of 1871.

The amendment as amended was agreed to by yeas 37, nays 7.

On motion of Mr. DWIGGINS, the bill was considered as engrossed and read the third time.

The question being on the passage of the bill—

Mr. DWIGGINS said he wished to correct an impression that had gone abroad that the Kankakee valley was an impassable morass, and ought to be drained as a sanitary measure. This was not now true. For the last two years the greater part of the Kankakee marsh had been in such a condition that a mowing machine could be run over it, and therefore could not have been a serious detriment to the public health. He urged the passage of the bill which repealed the acts of 1869 and 1871. It was true that he and other Senators from the Kankakee valley voted for the supplemental act of 1871, but it was simply because they found that they could not then procure the defeat of the act of 1869, and they thought the act of 1871 would mitigate the evils suffered under the act of 1869. Now, however, they were in favor of the unconditional repeal of both acts.

Mr. BOONE said he should vote against the bill. It would not cost the citizens of his county less than one thousand dollars to determine the questions that would be raised by the unconditional repeal of the present law.

Mr. SLATER said: I hope the Senator from Boone (Mr. Boone), in the magnanimity of his nature, will withdraw his opposition. It is evident that the loyal and patriotic denizens of Jasper, Pulaski, Benton, White, and other classic lowlands of the northwest, have been terribly outraged, and are now suffering manifold

indignities from the encroachments of the Kankakee Draining Company. It has robbed them, not of their historic cascades and waterfalls, nor of their murmuring brooks "that gush forth in the midst of roses," but it has robbed them of their lowland sloughs and shimmering lakes that have rested on their bosom for ages like dazzling breast-pins upon the bosom of the landscape. Fish, frog and other animalculæ of the aqueous element—that great propagator of brain power—which has shown such beneficent results upon the adults of that latitude, can now no longer be acquired as a food for the intellectual development of the rising generation. The melody of the sonorous bull-frog no longer lulls into the land of dreams the infantile prodigies of the Senator from Jasper. Frog's hams are a choice dish to the fastidious Frenchman, and who knows but their constituents, or even the Senators from Jasper and St. Joseph themselves are the noble scions of some doughty warrior who fell at the bridge of Lodi under the Old Napoleon, and has inherited a voracious and insatiate appetite for the posterior pedals of the sonorous bull frog. This draining law, under the operation of the Kankakee Draining Company, have robbed the people of Jasper of their bogs and marshes, their sloughs and bull-frogs, without which they are destitute of any primeval history, and in the event of no relief, the Senators from Jasper and St. Joseph would represent a constituency whose history had been sent "kiting" down the twilight shades of dire oblivion.

Mr. HOUGH agreed with Mr. Boone. He feared that the repeal of the law would imperil the vested rights of men in other parts of the State than in the Kankakee Valley, who had acted honestly, and whose work had been of great benefit to the localities where it was done. He also opposed the bill, because there are too many interests bound up in this bill detrimental to many of his constituents. Unless an amendment were made to this bill such as he suggested he would not stand by and see it passed without entering a protest.

The bill then passed the Senate by yeas, 42; nays, 3.

On motion by Mr. STEELE, the title was amended by adding the words, "and having the rights therein mentioned."

The PRESIDENT pro tem. (Mr. Williams in the Chair) announced another special order for this hour, being Mr. Chapman's bill [S. 88] to authorize the construction of levees, dykes, drains and ditches, and the reclamation of wet and overflowed lands by incorporated associations, and providing for the organization of such associations.

[The bill provides that any number of persons, not less than five, may associate themselves together for the construction of levees, dykes and drains, and the reclamation of wet and overflowed lands, of which any person may become a member by signing the articles of association. Before commencing the contemplated work the Board of Directors shall cause a survey to be made and a full description of the proposed improvement, which shall be open at all times to public inspection. The appraisers shall be appointed by the County Commissioners, and all persons whose lands will be affected by the proposed improvement shall be served with notice of the time and place where the Appraisers will begin the examination and assessment of lands. After the assessment is made, a printed notice shall be posted in not less than five public places in each township through which the work extends of the time and place, when and where the appraisers will meet to equalize their assessments. The assessments, when perfected and completed, shall be a lien on the lands assessed, provided that if the assessments of benefits do not equal the estimated cost of the work and the damages assessed and 10 per cent. of the whole amount in addition thereto, the work of the association shall not be further prosecuted. Any person feeling aggrieved by the assessment upon his lands may take an appeal to the Circuit Court or Common Pleas. If the work shall exceed five miles in length, it shall be let by the Board of Directors to the lowest responsible bidder. Otherwise it may be let by contract or done as the Board may deem best. Any person through whose lands the proposed work may pass shall be entitled to do so much of it as is upon his land, provided that he shall make application within twenty days after the filing of the assessment and will do it on equally resonable terms with those offered by any one else. The Board of Directors shall have power to collect only so much of the assessment as shall be necessary for the construction of the work and its protection and repair and to defray the necessary expenses of the association. The members of the association shall be individually liable for all debts contracted by and all damages assessed against the association during their membership. The bill repeals the act of 1869: provided, that the rights, franchises and powers of all companies organized under that act, the main line of whose work does not exceed

twenty miles in length, shall not be impaired by the repeal.]

Mr. DITTEMORE moved to postpone its further consideration till Friday at two o'clock.

On motion this motion was laid on the table.

The bill was read through the second time by the Secretary, as was also the amendments proposed by the Committee on Corporations.

[The Committee on Corporations recommended several amendments, one of which provides that the work shall not be commenced until one-third of the resident land-holders whose lands are to be affected thereby shall have petitioned for the appointment of the appraisers.]

Mr. DAGGY moved to amend the amendment proposed by the committee to section 13, by requiring the consent of the majority of the resident land owners interested in the construction of a drain, instead of one-third, before appraisers shall be appointed.

Mr. O'BRIEN thought in many cases the amendment proposed would be equivalent to stopping the work proposed. If the drain was a considerable length, where the average fall would not be more than three or four feet to the mile, a majority might be obtained, but in another case, such as he stated, it is not probable that more than one-third interested could be found willing to petition for appraisers.

Mr. BOONE opposed the amendment. He said that in many cases persons owning wet lands could not find an outlet for the surplus water without passing through the lands of others whose lands would not be benefited by the drain, and who, therefore, would not join in the petition, and thus the former might be deprived of the benefit of the act.

Mr. STEELE took the same view of the case.

Mr. WADGE favored the amendment. A majority ought to have control in such matters. It puts the matter where it rightly belongs.

Mr. ROSEBRUGH insisted that the doctrine that the majority shall rule is so completely an American principle, it should certainly be adopted in this case.

Mr. HUBBARD thought it no more than right that a majority should sign the petition for the appointment of appraisers, and could not see how this proposition can be objected to. It is contrary to the spirit of our laws and institutions that a minority should force the majority into the adoption of any measure.

Mr. SCOTT thought there should be an amendment including only persons within the limits of the water line of the proposed drain—persons owning land above the summit.

Mr. HOUGH was of the opinion that neither the amendment, nor the amendment to the amendment, was desirable, but that the bill as it is affords ample protection.

Mr. DAGGY modified his amendment by adding the words "liable to be assessed for benefits."

Pending which—

The Senate adjourned till ten o'clock to-morrow.

THE

BREVIER LEGISLATIVE REPORTS.

THIRTEENTH VOLUME.

INDIANA LEGISLATURE.

HOUSE OF REPRESENTATIVES.

TUESDAY, December 10, 1872.

The House met at nine o'clock.

On motion of Mr. McCONNELL, the reading of the journal of yesterday was dispensed with.

THE WABASH CANAL MATTER.

The SPEAKER announced the special order, viz.: the consideration of Mr. Kimball's bill [H. R. 129] and the bill [S. 83] to protect the Wabash and Erie Canal.

Mr. CAUTHORN moved that Mr. Kimball's bill [H. R. 129] be laid on the table, the Senate bill having provisions more acceptable to all parties.

Mr. KIMBALL seconded the motion.

Mr. SHIRLEY moved to recommit Mr. Kimball's bill to the Committee on Ways and Means, with instructions to add a section discriminating and providing against the payment of any bonds or stocks not declared to be a lien on the canal. He wished by this to protect the interests of the people as far as possible. There are two classes of these bonds: a certain class that are a lien on the canal, and another class that are not. The payment of the latter class should not be contemplated in this bill. He was not willing to undo now what was settled under the Butler bills—not willing to do now what the people in 1847 declared they would not do. He was not willing that what is not declared to be a lien on the canal should be paid by this bill.

Mr. KIMBALL. This was unnecessary. The committee had already disregarded similar instructions. He was opposed to making any discrimination between these bonds, for he would not sanction repudiation, and the idea of the amendment is that you will repudiate certain of these bonds. He moved to lay the bill and the motion to recommit on the table.

Mr. RICHARDSON demanded a division of the question, so by yeas and nays the motion to recommit was tabled first, and then Mr. Kimball's bill [H. R. 124] was laid on the table—yeas 81, nays 1.

The SPEAKER. The question is on the third reading and passage of the bill [S. 83] to provide for certain bonds or stocks of the State issued prior to 1841, and it was read the third time by the clerk.

Mr. BOWSER proposed a resolution. That the trustees of the Wabash and Erie Canal be instructed to appeal the case in the Cass Circuit Court, which resulted in the Garrett judgment, to the Supreme Court, to employ counsel, and pledging the State to pay costs and fees therein.

Mr. KIMBALL. We have no power over these trustees. We can't instruct them to appeal, and they won't appeal. We can gain nothing by such instructions. It is only making delay. The session is coming to a close. The 27th of this month is the last day of grace, and the House should not delay this matter an hour longer. If any one was opposed to the bill, he wanted him to declare that opposition openly, and not cover it up under the pretext offered by this proposition for delay.

Mr. OFFUTT differed with the gentleman from Marion as to the power of these trustees. One of these trustees is appointed by the State, and under instructions here he might appeal. There is a difference of opinion among legal men of the State as to the State's liabllity; and considering the majority of the people are opposed to the passage of this bill, it would be time enough to pay those bonds after the court of final resort shall have determined the question.

Mr. GREGORY thought there was a wide difference of opinion as to the State's liability. He especially cited the opinion of the Hon. Daniel D. Pratt, that, under the provisions of the Butler bill we are not called upon to pay any part of those bonds or stocks adjusted under the Butler bills. He was satisfied that the canal trustees would acquiesce in an order to carry this matter to the Supreme Court.

Mr. PEED thought this a matter of too great importance for hasty action, and that it should go to the Supreme Court. The settlement of the internal improvement debt under the Butler bill was a final one. The parties accepted the canal subject to all the liens. If we have taken no advantage of them it is no business of ours. Let them settle with their creditors They have never carried out their obligations. We should require them to come in and show clean hands. The legal questions involved are grave ones—the whole subject is involved in doubt; and the people should be given the benefit of that doubt. He was satisfied that the people were opposed to this bill, and that his vote against it would be in accordance with the wishes of his constituents. It was his conviction that by paying this portion of the indebtedness of this canal, we would be paving the way for the payment of the entire debt of the State under the old internal improvement system.

Mr. KIMBALL did not want to appear before the House too often. The point aimed at by this amendment is that this matter may be delayed. The State can not be made a party to this suit without delay, for which there is no occasion at all. He urged the justice of the case of the bondholders contemplated in this bill, and to deny it by legislation would be to attempt to make that law which contravenes the Constitution of the United States. For two years the subject matter which the resolution aimed to place before the people had been discussed by them. He wanted, in determining this question, to lose sight of all party feeling. Part of the debt has been paid, and part has not been paid. It is argued by some that the payment of these bonds will be a violation of the proviso of the Butler bill. They know that that proviso does not save the State as against those who refused to settle with the State under its provisions. This is no argument in favor of postponement. And he referred to the published opinion of Hendricks, Hord & Hendricks, distinguished lawyers employed in behalf of the State, to the effect that the provisions of the Butler bill do not save the State from the payment of these unsurrendered bonds. The opinion of these gentlemen may be relied upon; their argument went out to the country two years ago, and it is conclusive against the proposed amendment.

Mr. WILSON, of Ripley, confessed to having had difficulty in determining this question; but he was satisfied of his duty to protect this bill against any motion to postpone. Gentlemen talk about a contract. Were the holders of these bonds parties to that contract? It requires two parties to make a contract, and were the holders of these bonds parties to that contract? He read from one of these bonds to show that the faith of the State of Indiana was irrevocably pledged for the payment of them. In opposition to those who urge that this case be appealed to the Supreme Court, he alleged that it is the first duty of members of this General Assembly to determine what the law is, just as much as it is the duty of the Supreme Court. The Legislature must determine this question of law for itself. If the canal is sold to pay this judgment, the State becomes liable for the payment of the whole canal debt. But he went upon higher ground. The faith of the State was pledged for the payment of these bonds, and anything short of that would be repudiation.

Mr. WALKER considered that the only question is, whether we will recommit this bill with the instructions. It had been remarked by the gentlemen from Morgan and Johnson that this question has not been before the people of the State. Two years ago there was no 27th of December before us. If that had been before us then this question could have been before the Supreme Court, and we might have their judgment now. But it was not invited then; and he asked if the proposition now to appeal this case did not look simply like delay; and could the State of Indiana afford this? Had the people complained of their Representatives because they refused to submit this question to the Court of final resort? He was op-

posed to the amendment and moved to lay it on the table.

Mr. OFFUTT demanded the yeas and nays, and they were ordered and resulted—yeas, 76; nays, 14; so the motion to recommit was laid on the table and the question recurred on the passage of the bill.

Mr. SHIRLEY moved to recommit the bill with instructions to add a section that no bond or certificate of stock, or principal or interest thereon, shall be paid under this act, which is not declared a lien on the Wabash Canal conveyed under what is known as the Butler bills.

Mr. WALKER moved to lay this upon the table also, but withdrew the motion to give opportunity for debate.

Mr. SHIRLEY said that the only emergency was to provide for the bonds which are a lien upon the canal. He was pledged to his people to oppose any law providing for the payment of any bonds which are not a lien upon the canal. These bonds cost the holders not more than five per cent. If a refusal to pay these bonds was repudiation he cared not. During the canvass it had been charged against him that he desired to come here and pay the whole debt. On the contrary he was opposed to the payment of any part of it.

Mr. WALKER said the faith of the State was pledged for the payment of her outstanding bonds, and she could not afford to go before the money markets of the world and plead the baby act.

Mr. HENDERSON said that two years ago he did not hear a person express an opinion in favor of paying these bonds, nor did we hear anything in favor of it during the canvass. Let it go before the people again; let it form the question in the next canvass, and see who will return here. Let it be discussed openly. In his county it had only been discussed through a secret circular, charging the Democrats with a purpose to pay the debt.

Mr. HELLER said the House had passed an amendment to the constitution declaring the debt should not be paid, and now it is proposed to pass a law saying a part of it should be paid. The old bonds have not been so effectually canceled but that an expert can efface the cancellation marks, and again throw upon the market an unlimited quantity of old bonds. He exhibited one of the old bonds, and said he could produce a bag full in a little while. With this danger staring us in the face he felt that he would be safe to vote on the side of economy.

Mr. COWGILL thought there was no more direct way of making the State liable for the payment of the $20,000,000 of internal improvement bonds than the success of the course adopted by the opponents of this bill.

Mr. KIMBALL was sorry the gentleman from Morgan and Johnson (Mr. Shirley) had made this a party question. As a Republican, he would not make it a party question. Indiana had already purchased eight of the bonds it was proposed to repudiate, and derived a part of her school fund from the interest thereon. The General Government owned sixty seven of them, and Garrett had paid gold for his bonds. He could not vote to repudiate those obligations of the State.

Mr. WALKER said the argument was drifting away from the question to the general merits of the bill, he therefore renewed his motion to lay the motion of Mr. Shirley upon the table.

The motion to lay upon the table was agreed to—yeas 59, nays 35.

Mr. OFFUTT moved to lay the bill on the table.

The motion was rejected; and the question recurred on the passage of the bill [S. 83.]

Mr. SHIRLEY said the gentleman from Marion [Mr. Kimball] expressed regret that he had made this a party question. The Republican party has charged by secret circular that the Democrats were coming here to saddle the canal debt upon the people. The gentleman concedes that the State is only liable for 114 of these bonds, and yet asks me to sit here and make the State liable for the whole 191. They say we are honorably bound to pay them. I deny it. To carry out faith with his constituents, he would vote against the payment of one cent. He was not willing to go one step beyound the Butler bill.

Mr. SMITH was willing to go upon the record on the main issue. It was placed more upon the moral than upon a legal basis. Even in that aspect he thought it was against the bondholders. Good legal opinions had been offered on either side. He was in favor of waiting and having the decision of the Supreme Court. The people have once decided this question against the bondholders, and he was opposed to reopening it. The argument that the bonds should be paid because the State is able to pay them is not a good one, neither was the argument that the selling of the canal would render the State liable for the payment of the canal debt. The holders of the canal took it with a full knowledge of its incumbrances; and even agreeing that the friends of this bill are right as to the question of the State's liability for the unsurrendered bonds, the owners of the canal can on-

ly have recourse against her for the amount of the judgment recovered upon the bonds which remain a lien upon the canal. He deprecated the disposition to rush into extravagance, and much as he might desire to see the Republican party defeated, he did not wish that end should be accomplished though the means of its extravagance, as the people would in any event be the sufferers.

Mr. BUSKIRK was not alarmed by having this word "repudiation" thrust in his face. It was but a word after all, and words carry no weight except as they are considered in the light of circumstances. The gentlemen from Marion [Mr. Kimball] was himself guilty of repudiation in voting for the recently passed constitutional amendment. That meant nothing if it did not mean repudiation.

Mr. KIMBALL said he had voted for that amendment in order to prevent future payment of one-half of the debt which had been already paid.

Mr. BUSKIRK said the gentleman was right in so voting. He had voted that way himself, and in so voting they had both incurred the odium of repudiation. He believed the people were opposed to the payment of this debt, and if any odium was attached to the refusal to pay, it must revert to the people. If there had been any repudiation, it had been effected twenty-six years ago. This was an attempt at resurrection, not repudiation. Garrett had no moral claim superior to that of the holders of the canal certificates. The latter had come up to the help of the State in her extremity, while the former had not. If he believed the State, by refusing to pay these bonds and allowing the canal to be sold, would become liable for the old canal debt, he would support the bill, but this argument had no sound basis. The adoption of the constitutional amendment will effectually settle that. The friends of the bill can not be sincere in this, or they would not have voted down Mr. Shirley's amendment to provide only for the payment of the bonds which are a lien upon the canal. They not only voted that down, but they stifled debate, and he had a right to charge them with being insincere. Those who accepted the canal with all its incumbrances, having done so with a full knowledge of those incumbrances, can have no recourse against the State. He believed the payment of these bonds would give them a better claim than they have, for they could say you have violated your part of the contract as stipulated in the proviso to the Butler bill, and we can come in with our original claim. He deprecated the consideration of this as a party question. It could only be made such by the majority, and their present course tends to make it so; but he stood the peer of the gentleman from Marion, and nothing the opposition could do would throw him from his footing as an independent representative.

Mr. HENDERSON said before the vote was taken he wished to remind his fellow representatives that they were acting on their own responsibility, without instructions from their constituents. He knew of no community or county in the State that wanted to pay these bonds. Hence, it certainly could not be regarded that a delay of a few days to examine the question before voting would be improper. His people certainly did not want to pay these bonds, at least, and he should therefore vote against it.

Mr. CLARK said he would remind the gentlemen that there was at least one member whose people, if they had not formally instructed him, had at least indicated their views very clearly. The subject of the payment of the bonds was discussed during the canvass, and there was no voice raised against the payment. He thought that an honest man, who failed in business and took refuge behind the bankrupt law, if he ever rose to affluence, was bound to pay his honest debts. It seemed to him that the State of Indiana was bankrupt in 1847, and if she is able to pay her debts to-day she is bound to do so. He should, therefore, vote aye.

Mr. CAUTHORN said this was perhaps the most important subject that would come before this Legislature, and he agreed that there ought to be a full and fair discussion of its merits. He also agreed that it should not be made a partisan measure. He did not know what was the feeling of his own county on this question. If he did he would carry out their wishes, and if he could not do it conscientiously he would resign and go home. But as they did not instruct him, he proposed to follow his own views and opinion on the subject. He knew that legislation is too often influenced by lobbyists. Every member on the floor should act for himself. What do the friends of the bill say it should be passed for? In the first place it is to prevent the happening of an uncertain contingency that the State will be in danger of being saddled with a debt of twenty millions that was canceled by the transfer of the canal. Another reason is that if you don't do it the credit of the State will be gone; that we will be repudiators. If the State would be liable to

any such charge he would vote for the passage of the bill. He would do almost anything to preserve the glory and credit of the State. Bute he denied it, and called upon the friends of the measure to snow where the credit of the State was ever pledged for the payment of these bonds. He defied the Attorney General or anybody else to tell him where the credit and faith of the State was now at stake.

In 1832 the first act in this State on the subject of internal improvement, was passed. At that time lobbyists told the people that these improvements could be made for $200,000. They issued 200 bonds for that purpose. They were put on the market, and these Wall street sharpers took them. The State charged these bonds on the Wabash and Erie Canal and its tolls and revenues, and guaranteed that they would be sufficient for that purpose. Not one of these 200 bonds was ever surrendered or canceled under the Butler bill, nor paid by the State. The Supreme Court of the United States has decided that they are a prior lien on the canal. All the arguments of the gentlemen apply with equal and greater force to the 200 bonds issued under the act of 1832.

To sustain this position, Mr. Cauthorn read from the decision of the Supreme Court in the case of Beers against the Trustees of the canal. He then proceeded to give a history of the legislation on the subject subsequent to 1832, and the acts done in pursuance of it. He charged that of the ten millions issued in 1836, the State lost five millions by the frauds of the agents, who appropriated them to the payment of their own private debt. Unfortunately, they were thrown on the market and got into the hands of innocent purchasers. Thus they remained until 1840, when the great crash came. Upon their motion in 1846, the compromise was made. The proposition came from the creditors. They knew if they could get the canal lands from the State it would be a good bargain. He argued that by the terms of the legislative contract, these bonds were all paid and the holders could never set up a claim against the State for their payment, otherwise than was provided for by that contract.

Mr. KIMBALL said the act of 1847 contained a clause which expressly declared that the tolls and revenues of the canal, the lands, etc., were specially pledged for the payment of the debt and the State bound herself not to permit an appropriation of such tolls and revenues, etc., for any other purpose. The whole question was summed up in that very clause. If we stand by and permit the tolls and revenues of the canal to be sequestrated we do precisely what we pledged ourselves in that act not to permit to be done. He held that it was the duty of the State to stand by her pledged faith. If the law releases a man from an obligation and he afterwards becomes able to pay it and refuses to pay his debts he is a dishonorable man. Shall the State of Indiana be less careful of her honor than a private individual? By the arrangement that was made, which was at the instance of the creditors, when a man voluntarily surrendered his bonds he took one half in cash and a lien on the canal for the other half. When these men refused to surrender, they refused to come under the contract and could not be bound by it, and he stood ready to cast his vote for the bill to sustain the honor of the State. The question had been submitted to the people. Everywhere he spoke during the canvass he mentioned it, and proclaimed to the world and the people of Indiana, that he, as a member of his party, was in favor of voting for the payment of that claim. He stood to-day, not as a partisan, but as a citizen to discharge his duty.

Mr. BRETT failed, upon an investigation to see how a refusal to pay the bonds named in this bill, could in anywise subject the State to the resumption of the part of the State debt for which the canal was taken by the creditors of the State under the acts of 1846–7, commonly called the Butler bills. It is said that the bonds named in this bill are a prior lien upon the canal. Governor Baker said, in one of his messages, that they were only a lien upon that portion of said canal south of the Tippecanoe River; but grant that the lien is upon the whole of the Wabash and Erie Canal, and that the canal should be sold for the payment of the bonds, I still insist that the State would incur no liability to the present holders of the canal. Section eight of the act of 1846, commonly called the "Butler bill," provides that the canal shall be taken, "subject to all existing rights and equities against the State on account of the State, or any part thereof, or liabilities of the State, growing out of, or in relation thereto; and the same to be held by said trustees in trust and security, for the uses and purposes following," etc. From the above extract it is evident that the Legislature intended to transfer the canal, subject to all liens and demands whatever; and the stockholders so understood the contract, as evidenced by the fact that bonds 69 and 70, held by Joseph D. Beers, and 53 and 54, held by Israel Cohen, have

been redeemed by Charles Butler, the trustee on the part of the stockholders, at his office in the city of New York. The total amount of principal and interest paid on said bonds being $14,450 22, as shown in a communication of a recent date, from Thomas Dowling, Esq., one of the canal trustees, to His Excellency, Governor Baker. I have also been told that one of the trustees gave as a reason for not redeeming the remaining unsurrendered bonds that the trust was unable to do so for want of money. On page 44 of the journal of the last House of Representatives of this State, I find in the message of the Governor of the State therein recorded this extract from an opinion of the Supreme Court, to-wit: "The holders of the latter bonds believed that with the $200,000 lien prior to theirs they would improve their condition by taking the State for one-half the debt and the canal stock certificates for the other." It must be evident from this extract that the Supreme Court construed the law to the effect that the canal was taken by the stockholder subject to all prior liens upon it. Considering the facts, it seems clear to my mind that the State can not in any event be compelled to resume the debt that was adjusted and settled when the present holders of the canal stock took possession of the canal under the act of 1846 and 1847.

Mr. BRANHAM said, when the compromise was made it was the opinion of the House as well as the agent of the bondholders, that the property was not only amply sufficient to pay the bonds surrendered, but to take up all the liens on the canal. That was the basis upon which they all acted. Unfortunately for them and for the State it proved a failure. There is no man in the House now who believes that the canal is good for the debt, and the only thing left is the guaranty of the State. These men took the canal in payment for their debt and made a new contract, and if we allow this prior lien to come and sweep away the canal from under them, it sets the contract aside, and the State becomes liable for the original debt. He called on the members to come up like honest men and pay the obligations of the State. Gentlemen say the question was not before the people. He took the ground openly before the people that we must pay these 191 bonds in order to secure parties contracting and prevent the State's liability to pay the original canal debt. And he told the people if they did not want the bonds paid not to vote for me, and came here with a majority o over 400. He therefore considered himself instructed to vote for this bill.

Mr. SHIRLEY. Gentlemen say in effect: If I take property and sell it with knowledge of the legal insolvency by reason of the prior lien, then I am liable. But if I sell with no knowledge in respect to the lien, I am not liable. Whenever a man so purchases property, (whether a firm or otherwise) he is subject to the lien.

Mr. BRANHAM. Whilst the purchaser of the property has no lien, the man that has the prior lien takes it.

Mr. WYNN now demanded the previous question, and there being a second by a majorty of the House, the main question was ordered, viz: Shall the bill pass? The yeas and nays being ordered and taken thereon resulted—yeas, 55; nays, 41, as follows:

Yeas—Messrs. Baxter, Billingsley, Branham, Broadus, Butterworth, Butts, Clark, Cobb, Cole, Cowgill, Crumpacker, Edwards of Lawrence, Ewart, Furnas, Gifford, Glasgow, Glazebrook, Goudie, Grosvenordyke, Hardesty, Hatch, Hedrick, Hollingsworth, Johnson, Kimball, King, Kirkpatrick, Lenfesty, Lest, McConnell, Mellett, Miller, North, Odle, Ogden, Prentiss, Reeves, Riggs, Rumsey, Satterwhite, Scott, Thayer, Tingley, Thompson of Elkhart, Thompson of Spencer, Troutman, Walker, Wesner, Wilson of Blackford, Wilson of Ripley, Wood, Woodard, Woollin, Wynn and Mr. Speaker—55.

Nays—Messrs. Anderson, Bowser, Brett, Bushell, Cauthorn, Claypool, Cline, Coffman, Dial, Durham, Eaton, Ellsworth, Givan, Goble, Gregory, Heller, Henderson, Hoyer, Isenhower, Jones, Martin, McKinney, Offutt, Peed, Pfrimmer, Reno, Richardson, Rudder, Schmuck, Shirley, Shutt, Smith, Spellman, Stanley, Strange, Teeter, Tulley, Whitworth and Willard—39.

So the bill was passed the House of Representatives.

The House took a recess till two o'clock p. m.

AFTERNOON SESSION.

The SPEAKER resumed the chair at two o'clock p. m., and took up the order of the call for

REPORTS FROM COMMITTEES.

Mr. WALKER, from the Committee on the Judiciary, returned Mr. Jones' bill [H. R. 184] to create the Thirty-second Judicial Circuit, recommending its indefinite postponement.

The report was concurred in.

Mr. FURNAS, from the Committee on Agriculture, returned Mr. Hatch's bill [H. R. 191] to protect stone and timber from unlawful removal with an amendment, striking out $500, and the remainder of the section, and inserting "not less than $25 nor more than $300," and adding "imprisonment in the county jail from ten to sixty days."

The amendmont was adopted, and the bill ordered to the engrossment.

Mr. BILLINGSLEY returned Mr. Butts' bill [H. R. 195] to amend section seven of the supervisors' act, recommending its indefinite postponement, (for the reason that the title does not correspond with the matter of the bill,) and reporting a substitute, viz: A bill [H. R. 225] to amend section two of the act to provide for the protection of wild game, approved March 7, 1867, and to provide for the protection of certain birds and their eggs.

The report was concurred in and the substitute was advanced to the second reading.

Mr. MELLETT, from the Committee on Education, returned Mr. Lenfesty's bill [H. R. 130] to render uniform the rate of interest (8 per cent.) on the Common School Fund of the State, recommending its passage.

It was ordered to the engrossment.

Mr. WOODARD, from the Committee on Fees and Salaries, returned Mr. Riggs' bill [H. R. 113] to amend section two of the act to amend sections four and seven of the act to provide for the election of Attorney General, etc., approved June 13, 1861, recommending its passage. (It proposes to raise the salary of that officer to $3,000.)

It was ordered to the engrossment.

Mr. COLE returned Mr. Wilson, of Ripley's, bill [H. R. 25] defining the salary of the Governor, Judges of the Supreme, Circuit and Common Pleas Courts, and District Attorneys, and to repeal section twenty-four of the act of 1865, to sell certain real estate and provide a residence for the Governor, recommending its indefinite postponement.

Mr. WILSON, of Ripley, moved to recommit the bill with instructions, but before it was reduced to writing, on motion of Mr. GIVAN, the matter was laid on the table.

REPEAL OF THE CORPORATION DRAINAGE ACTS.

Mr. BRANHAM called for the special order and it was taken up, viz: Mr. Butterworth's bill [H. R. 3] to repeal the corporation drainage act of 1869, and the supplemental act of 1871.

Mr. BUTTERWORTH, having introduced this bill and before given his views of it on the floor, he would not now say more than to represent the desirableness of this repeal in the northwestern part of the State, and invoke the House to sweep it from the statute book.

The SPEAKER (Mr. Offutt in the chair) directed the Clerk to read the bill and it was accordingly read the third time.

Mr. HATCH was earnestly in favor of the passage of this bill, and hoped no specious considerations would prevent this swindle from being wiped out. This Kankakee company had assessed a large amount of lands to nearly their full value, which threatened to drive out the owners, but they were subject to the difficulty of selling land subject to such an encumbrance. His people, who have felt its practical workings, unite in pronouncing this law most oppressive and unjust, and ask for the passage of this bill to repeal it as an act of simple justice.

Mr. HELLER also spoke against the bill, and submitted a statement in figures, showing that the Kankakee company have assessed nearly five millions of taxes on 600,000 acres of land—$8 an acre, and more than their value; that they propose to make their ditch some four miles north of the Kankakee stream, taxing the lands on the south that do not require their drainage, and concluding that they might with equal justice extend their assessments to Indianapolis. He also showed from the act their extravagant powers, denouncing it as a disgrace to the statutes, and calling upon gentlemen not specially interested to come up to the help of Representatives from the northern counties, and stamp this swindle into its native mire. We will break the back of this monster, and let it sink into the swamps of the Kankakee.

Mr. JOHNSON having been entrusted by the Judiciary Committee with the investigation of this matter, and complimented by Representatives interested with an invitation to make the argument delivered an elaborate speech on the whole premises. He said:

Mr. Speaker: The pending bill proposes to repeal the act of May 22, 1869, and the act supplemental thereto, approved February 23d, 1871.

The act of 1869 authorizes the formation of companies for the purpose of "draining, reclaiming, and protecting lands which are wet, or liable to be overflowed."

A company organized under this act can not consist of less than three members, all of whom must be owners of lands to be affected by the proposed work.

The process of forming the company is simple in the extreme.

Three or more persons owning lands of the character indicated, come together and sign articles of association, specifying the name and purposes of the company, and file the articles thus signed for record in the offices of the Recorders of "each of the several counties in which any part of the work shall be situated, and from the

date of filing the same for record in either of such counties, such companies shall be a body corporate with all the powers incident to such bodies." When the corporation is thus formed "it shall have power," in the language of the statute "to straighten, widen, deepen and make new channels for the whole, or any part, of any river or water-course, and to construct any dykes, drains, levees and breakwaters, and to do everything which they shall deem proper to accomplish the purposes for which the company shall have been organized."

In order to raise money for the prosecution of the proposed work, the company may apply to the Circuit or Common Pleas Court of any county in which any part of the work shall be situate, or to a Judge in vacation, and it is made the duty of the Court, or Judge, upon such application, to appoint three appraisers. These appraisers "examine all lands, the intrinsic or market value of which may be by them supposed to be liable to be affected by the construction of the proposed work."

The land, for the purposes of the appraisement, is listed in forty acre tracts. No estimate is made of the value of the lands themselves.

They estimate:

1st. The injuries which the land will sustain.

2d. The benefits which the lands will derive from the proposed work.

These estimates are made in schedules, signed and sworn to by the appraisers. The schedules are filed in the offices of the recorders of the several counties, and, from the time of filing, become liens upon the lands assessed for the amount of benefits, less the amount of injuries.

These liens are, to all intents and purposes, involuntary mortgages upon the lands, and section eleven of the act of 1869 provides that they may be enforced by foreclosure the same as mortgages. There is no requirement that these corporators shall be occupants of the land, nor even residents of the State. They may be non residents. They may be foreigners. There is no provision fixing the quantity of land which they shall own, either individually or collectively. They may own but forty acres of land each, or but forty acres, or more or less, all together. The powers accorded them by this statute are unlimited in their extent, and monstrous in their character.

A few unprincipled speculators, residing perhaps in a distant State, happening to own a small tract of wet lands, or lands liable to be overflowed—lands which may be worth five dollars per acre, or which may be almost worthless, may, under the provisions of this law, take possession of the whole of a valuable water course—may absolutely control the great domain through which it passes, and may prostrate the interests of half a million of the people, and so long as the law remains no power can check them. Their power is bounded only by their own recklessness or avarice.

Under this statute two or more companies may organize for the purpose of draining the same region of country, or of straightening, widening or deepening the same watercourse.

In point of fact the Kankakee Valley Draining Company and the Newton County Draining Company, have both actually organized, for the purpose of performing exactly the same work, upon the same river, and the same lands, and taxing, within the limits of Newton county, the same people, and I believe the Supreme Court have held both organizations valid. And in the conflict and confusion of rights which must follow the people are to suffer, and nobody but a lot of dishonest adventurers are to be benefitted.

ELECTION OF DIRECTORS.

Section 2 of the act directs that the members of the company "shall elect from their number not less than three nor more than seven directors, of the time and place of which election the members shall be notified by notices signed by three members and posted in three public places near the work, five days before the election."

After the first election the company must hold annual elections, as provided for in section 4, "at such times and places as the company shall appoint, for the election of directors, of which twenty days' notice shall be given by one week's publication in one newspaper of general circulation in each county, in which any part of the work shall be situate; and if there is no such paper, then by posting notice in three public places near the work."

Now these requirements for notice to be given of elections amount to just nothing at all. Notices of the first election must be posted five days near the work. The Kankakee Valley Draining Company propose to straighten the channel of the Kankakee river. Dense jungles and dismal swamps extend from the banks of the river a distance of from three to ten miles in either direction. If they could hire one of the wild Indians still lingering in the region to work his way through the swamps among the poison vines, and the snakes,

to the bank of the river, and pin up the notices on three saplings five days before the election, this would be good notice under section 2, and if the feat were performed twenty days before the election it would be good notice under section 4. Mark, the notices are not to be posted in each county where the work lies, but if posted in one county, it is good notice to all persons in all the counties. The Kankakee river runs the length of eight counties, so that if the notices are posted in the swamps at the western State line, they are as good against the people of St. Joseph county a hundred miles distant on the headwaters of the river, as they are against those of the proximate or intermediate counties.

No proof of the posting or publication of the notice is reqired. Nobody is required to make an affidavit of it, and no public officer is required to supervise it, or take the proofs. So it is a mere matter of discretion with the company whether they will give notice at all or not.

These acts do not require these elections to be held in any of the counties where the work is situate; nor even in the State. They may be held in Chicago, or New York, or New Orleans, or anywhere else, where it will be most certain that the resident land owners will never find them, and never be able to attend them. I am informed that the elections of the Kankakee Valley Draining Company have all actually been held out of the State. Just where is unknown, owing to the inability of the people to penetrate the swamps, in order to find the notices.

Again, these acts do not provide, as they should, that a majority, nor any other proportionate number, of members should be present at the elections. Nor do they provide that one-half, nor any other proportionate quantity of the land owned by members of the Company, much less the land to be affected by the work, shall be represented at the elections.

Neither are votes counted as they should be, according to the quantity or value of the interest of the members. The vote of a member owning one acre of land weighs as heavily as that of one owning a thousand acres.

See the unjust workings of this law. We will suppose the members of the Kankakee Valley Draining Company to own, collectively, one hundred thousand acres of land, of which we will suppose the three, or seven, enterprising directors to own but one hundred and fifty acres. We will suppose the Directors to live in Pittsburgh, Pennsylvania, as I believe some of them actually do. They call an election to take place in the private office of one of their own number. Of course it is out of the question to expect the humble land owners of the Kankakee Valley to attend this election. These three or seven sharpers, being probably the smallest land owners in the Company, gravely elect themselves Directors, and thus take and keep control of the entire interest of the honest men who are so deeply interested in the work. Add to this the further fact that the great body of the land owners who are to be so deeply affected by the work of the Company, are not members of the organization at all, and you have a combination of fraud and despotism which is startling to contemplate.

But let me examine a little further the mode of levying assessments upon the lands.

APPRAISERS.

The company may apply to the Court, or Judge, who most, "immediately upon such application, appoint three disinterested appraisers." Now, these appraisers are to assess the lands of a great number of persons; and are to be the sole judges of the amounts of the levies. In short, the people are absolutely at their mercy; and yet no notice whatever is to be given of the time and place, when and where the appointments are to be made, or applied for. When property is to be sold on execution, the law provides that the owner must be notified, and may choose one of the two men who are to appraise it. Not so here. The owner not only has no voice in selecting the men who are to appraise and assess his lands, but he must not even know when or where, or by whom the selectirn is to be made. The corporation who levies and collects, and uses the assessments has the whole matter in its own control.

But what are to be the necessary qualifications of these appraisers? Their duties are certainly important—their power for evil, should they be corrupt or ignorant, is certainly enormous.

Property levied upon by attachment must be appraised by the Sheriff, "with the assistance of a disinterested and credible householder of the county."

Property levied upon by execution must be appraised by "two disinterested householders of the neighborhood where the levy is made, one to be chosen by each of the parties." Why are not the same safeguards erected here, where the interests involved are almost incalculably greater than in the cases which I have mentioned?

This law requires simply that the appraisers shall be "disinterested." The very thought of their being disinterested is annihilated instantly by the fact that they are to be employed and paid by the company for whose benefit the appraisements are to be made. They are not required to be credible citizens, nor householders, nor freeholders, nor residents of the county, nor even of the State. They have not the first single qualification of upright and impartial appraisers. They may be non residents of the State; they may be honest men, but totally ignorant of the lands they are to assess; they may be seedy vagabonds and professional dead beats, and, if I am not very seriously misinformed, this is the actual character of men who have appraised most of the lands in the Kankakee Valley.

These appraisers are not appointed in each county. Being appointed in one county, where part of the work lies, they make the appraisements in all the counties into which it extends. This is certainly wrong; for if the appraiser should be even an excellent judge of lands and values in the county where he resides, he might be no judge at all of different lands in a different and distant county.

Section nine requires that "Notice of the time and place when and where the appraisers will begin the examination of lands, and the assessments of benefits and injuries thereto" shall be given. No form of notice is prescribed, and no particular mode of publishing it is pointed out. The statute simply says: "*It shall be sufficient* if published three successive weeks in a newspaper in the county where the land is situate." It is at the option of the company to publish it in a newspaper or post it in the swamps.

The same section provides that "proof of the publication may be made by the affidavit of the editor of the newspaper, or of the secretary of the company." But this amounts to nothing, because there is no requirement that the proof is to be filed with, or made to any public officer. Nobody supervises or inspects it, and the company may give notice or not, just as they please, and nobody can object.

THE ASSESSMENT.

It would have been expected that so important a matter as making these assessments would have been guarded and controled by strict and clear regulations. But it is not so. The language of the statute is that "such appraisers shall examine all lands," etc.

Must this examination be by an actual view of the lands, or may it be an inspection of records and maps representing the lands?

The friends of this law, and the companies organized under it, contend that this provision does not contemplate an actual view of the lands, because, owing to the very nature of the lands themselves, being marshy swamps, it would be next to impossible to traverse them, or, in most cases, even to get in sight of them. Whatever may be the true construction of this statute, it is sufficient for my purpose to make the point that it is uncertain, when it ought to be clear, and that, being uncertain, it may be abused.

And indeed, it *has been* most shamefully abused. I am assured by a number of reliable gentlemen from the Kankakee valley counties that the appraisers of the Kankakee Valley Draining Company did not even pretend to make an actual view of the lands by them appraised. The whole work of the appraisements and assessments was done in an obscure room in one of the remote country towns, near the mouth of the river. Maps and copies of records served to represent the lands, and to assist the appraisers in guessing the assessments up to a figure sufficiently high to satisfy the company who paid them for their work. This is a grave charge, but I have still further proof of it. About a year ago General Geo. W. Cass, of Pittsburgh, Penn., the treasurer of the Kankakee Valley Draining Company, made a speech in the rooms of the Board of Trade at Indianapolis. The speech, after being carefully revised by him, was printed in the Indiapolis *Journal*. I hold a copy of it in my hand, and read from it the following words:

"Still another reason for delay has been the work of assessment. It is no small matter to assess so large a body of land. Notwithstanding the assertion that the assessment was made in an office, without an inspection of the property, it has taken nearly a year to do the work."

Here was a fair opportunity to have denied the charge if it had been false. He not only does not deny it, but in a carefully prepared and published speech impliedly admits its truth.

But let me call attention to the unlimited and dangerous discretion allowed these appraisers. The language of the statute (section six) is that they shall assess "all lands, the intrinsic or market value of which may be by them supposed to be liable to be affected by the proposed work." The Kankakee Valley Company propose to straighten the whole channel of a river. To what distance from the

river on either side may the assessments be pushed? Shall they be levied upon a strip of country three miles wide, or five miles wide, or twenty miles wide? The appraisers are the sole judges. What lands are to be assessed? Wet lands only, or dry lands also? "All lands the intrinsic or market value of which may be supposed by them (the appraisers) to be affected by the proposed work." The appraisers are the absolute judges.

What shall be the basis of these estimates? Shall each tract or each acre be assessed according to its value? This is the rule of taxation by the State government and the county and municipal organizations; but not so in this case. The appraisers may levy the assessment according to their own whims "without regard to the value of the lands or the costs of the proposed work." (Sec. 6.)

The value of the lands may be only three dollars per acre, and these appraisers may levy upon it a tax of ten dollars an acre. The cost of the work may be one hundred thousand dollars, but these appraisers may levy assessments to the amount of one million, or five million dollars. In short, their discretion is unrestrained, and their power unlimited. This is indeed, an alarming picture, but it is still short of the truth as I will show by actual facts.

RE-ASSESSMENTS.

But after the exercise of this fearful power will the corporation then be satisfied?

Section 6 provides further "that as often as it shall be desired by the company to make a reassessment of any tract or tracts of land for any purpose, said appraisers shall, upon request of the company, make such reassessments and so, from time to time, when, and as often as they shall be requested, and shall make and return full schedules of the same; and such schedules shall be filed for record, shall constitute liens, shall be collected, and shall in all respects be governed by the same rules and have the same force and effect as the original assessments above provided for."

The appraisers themselves without character or qualifications! Their power unlimited as to the lands which they shall assess, or the amount of their levies! And a soulless corporation with unrestrained power to repeat the assessments at their discretion and upon any pretext to suit their own purposes!

These details are so loose and reckless as to make it impossible to justify them and disgraceful to defend them. But if this is true of the provisions which I have been discussing, what will be said of section 15? It is as follows:

"No informality, irregularity or omission which shall have occurred, or which may occur in the organization or proceeding of any company, or in the appointment or proceedings of any of their officers, agents, or the appraisers, shall affect the rights and privileges of such company, or invalidate the assessments of the appraisers, nor any sale of land which may be made under any foreclosure of any lien for the aesessments thereon."

The effect of this is simply that the rules prescribed by law for the proceedings of the company may be followed by the company or not, just as they like. Whatever they may have done or may do, is here legalized, however unjust or oppressive. No defect in the organization of the company, no violation of private right or public justice, no omission or neglect of prescribed duty can possibly be imagined which is not cured by this section.

POWER TO ISSUE BONDS.

As we have seen the schedules of assessments, when filed in the offices of the Recorders, become liens upon the lands, in the nature of mortgages, and the company may enforce them by foreclosure.

Section 13 provides that the company may borrow money by issuing and selling their bonds. In order to secure the payment of these bonds and the interest on them at maturity, section 13 further provides that the company may mortgage or pledge the assessments to the bondholders, or, at their option, to Trustees, for the benefit of the bondholders. These bonds are invested with every attribute of negotiability, and indeed are protected in the hands of innocent holders with a care far more sacred than is extended to any instrument known to the law merchant. The last clause of section 12 provides:

"And after any such bond shall have been negotiated, no action or proceeding shall be instituted, nor any defense to any action interposed by the company, or any other person or persons, the object and tendency of which shall be to impair the validity or security, or to depress the value of such bonds, any provision of the law to the contrary notwithstanding."

Now, a note or bill of exchange, negotiable by the law merchant, passes into the hands of innocent third parties, free from all defenses which the maker may have had against the original holder. But if a mortgage is given by the maker to secure payment of the note, he may defend against the mortgage, in the hands of any

holder, however remote. The note can not impart the quality of negotiability to the mortgage, nor to any other instrument given to secure it.—14th Ohio State R. 423.

But this statute first invests the bonds of the company with the strict and exceptional attribute of negotiability, and, still further, extends the same quality to the mortgages given to secure them, and, still further, to the assessments upon which the mortgages are given. It was justly thought when commercial paper was clothed with the quality of negotiability that it was a hardship, which nothing but the necessities of commercial business could justify; and courts and legislatures have steadily and properly refused to enlarge this class of instruments. Here then is a most startling and dangerous anomaly. First, the bonds made are sacred, and through them all remedies denied the people against both the mortgages and assessments upon their lands, no difference how unjust or fraudulent they may be.

RIGHT OF APPEAL.

But in this provision there is a covert fraud which renders the danger to the people more appalling still. Let us see:

The latter clause of section six provides that "Any person aggrieved by the assessments may at any time within thirty days thereafter appeal therefrom to the Circuit or Common Pleas Court of said county."

Now, here is a right of appeal which looks fair enough on its face, but it is completely destroyed by section thirteen, which we have just been considering.

To illustrate: We will suppose the assessments levied and the schedules filed in the Recorder's office on the first day of the month. On the same day, or the next day, the Company may issue and negotiate one or more bonds and mortgage the assessments to secure them. The thirty days allowed for an appeal have not expired yet, nor even two days of the thirty; but section thirteen says, "after any such bonds shall have been negotiated, no action or proceeding shall be instituted, nor any defense to any action interposed, by the Company or any other person, the object or tendency of which shall be to impair the vitality or the security, or to depress the value of such bonds—any provision of the law to the contrary notwithstanding."

Now the institution of an appeal from the assessments mortgaged would very clearly be "the institution of a proceeding," and it would with equal clearness have a very decided "tendency to impair the security, and depress the value of the bonds."

Thus all questions concerning the assessments are put at rest, and end with the filing of the schedules with the Recorder, and the sacred right of appeal, and the still more sacred right of trial by a jury of the country, are denied the people, at the will of a tyrannical corporation.

It will not relieve this view in the least regard for me to say that at best I gravely doubt the validity of this section providing for appeals. It prescribes no mode by which the appeal shall be taken. It gives barely the naked right of appeal without providing any manner in which it may be enforced. I seriously doubt if it is not a nullity.

When the bonds of the Company are once issued and sold to innocent purchasers and the assessments are mortgaged to secure them, but one thing is left for the land owners to do, and that is to pay their assessments in full, and they can make no defense whatever against them.

And this they are compelled to do, although not one stroke of work has ever been or shall ever be done upon the proposed improvements. Could any people be more completely at the mercy of despotism?

THE CORPORATION REQUIRED TO GIVE BONDS.

But I am admonished that the law requires these Companies to enter into bonds with sufficient sureties for the security of the people whose interests are thus jeopardized.

Mr. Speaker, in every section of this law we find a snare.

Section ten of the act of 1869 does provide "that unless the main line of the company's proposed work shall exceed twenty miles in length, no part of the assessments shall be collected by the company until the company shall have given bond."

This provision is only applicable to small companies whose main line is less than twenty miles long. If the proposed work is over twenty miles in length no bond is required. This is on the principle that the greater the risk the smaller shall be the security. A company collecting two or three thousand dollars shall give bonds, while a company collecting two or three millions shall give none. This enactment was clearly for the purpose of strangling small honest associations in the interest of mammoth speculations.

I know that section two of the supplemental act requires a bond of the large companies; but such a bond as it is!

has but one condition, and that is, "for the faithful application of any and all moneys which shall come into its hands to the legitimate purposes of the corporation."

Now what protection does this afford to the honest land owner who pays his assessment to the company? Just none at all. The same section declares that "any person aggrieved may have his, her or their action on this bond for damages sustained."

But what action can the land owner bring? He has paid his money, and it is lost. He brings his action to recover it. In order to recover upon this bond he must show, by a preponderance of the testimony, that the identical money which he paid has been misapplied by the company, and he must show just how each and every dollar has been misapplied, and he can recover no more than he can thus trace out and locate. It is not enough for him to show that a large amount of money generally has been misapplied, but each dollar which he locates he must recognize as the identical dollar which he paid, or he can not recover it. A recovery on this bond is thus plainly impossible.

There is no condition in this bond binding the company to anything. There is no condition that they shall prosecute their work faithfully and without delay. There is no stipulation when they shall commence it nor when they shall complete it. There is not even a requirement that they shall ever commence it, or ever complete it. Here again, as at every point, the whole matter is in the discretion of the company. But this bond obligates the company to apply all money coming into their hands to "*the legitimate purposes* of the corporation."

What are its "legitimate purposes?" We know what they ought to be; but can we surmise how the corporation, with its unbounded powers and its soulless body will interpret them?

Section three of the original act declares that "such company shall be a body corporate, with full power to *buy, receive donations of*, and hold, and sell, and convey any lands benefited, or to be benefited by the proposed work." And here, Mr. Speaker, is the great secret underlying the whole of this mighty fabric. When the land owner goes to recover his money, the company answers that they have it invested, or possibly have lost it in real estate speculations, and there is an end of it.

The securities required by this act were never intended for the benefit of the persons who bear the burthens. I hold in my hand a prospectus issued by the Kankakee Valley Draining Company in 1871, about one year ago. On page ten I find the understanding of that company upon this subject very clearly expressed in these words:

"Ample bonds and security has been given by the corporation to the State of Indiana, *for the benefit of the bondholders*, as well as all other parties in interest, that all moneys advanced by the *purchasers of bonds*, or paid by land owners upon assessments, shall go into the security pledged to secure the bonds." The principal purpose in giving security then, is to make the company's bonds sell. And here is a clear declaration that these securities are for the benefit of the *bondholders*, while the poor land owners are indefinitely referred to as being "other persons in interest."

MEMBERSHIPS.

I know the law permits any person owning lands to be affected by the proposed work to become a member of the company by signing the articles of association; and it is urged with an appearance of fairness that the resident landowners can by this means not only protect themselves, but have it in their power to take entire control of any company.

In the speech to which I have once referred, Gen. Cass, the Treasurer of the Kankakee Valley Draining Company, used these words:

"The law provides that every man owning an acre of ground can become a stockholder, and it is the wish of the company that they would."

I have no doubt General Cass earnestly wished so: for the Articles of Association of his company stipulate that any landowner may become a member by signing the Articles and "paying to the company fifty cents for each acre of land owned by him." So that the initiation fee to membership in this company is from $20 to $1,000 more or less owing to the wealth of the individual. "You pays your money and takes your choice."

There is no pretense that this initiation fee is required either by the letter or spirit of the law. But it is part of the articles of association which the applicant must sign in order to become a member, and when he does sign the articles he is as much bound by this stipulation as any other part of the contract.

Another one of these stipulations is that "if he fails to pay any due or assessment, he shall have no right to hold any office or vote at any election of the company." So, at last, we see it costs dearly indeed to get control of one of these companies. To

the modest landowner it is simply out of the question.

CONSTITUTIONAL VIEW OF THE SUBJECT.

So far, Mr. Speaker, I have considered only the inheritant defects and consequent injustice of these laws. Let us now take a higher view of them.

Upon what constitutional ground can they be justified?

THE TAXING POWER.

One of the highest attributes of sovereignty is the power of taxation. The Constitution vests this great and sacred power solely in the Legislature, with no authority to delegate it to any other hands, except within certain well defined limits.

County organizations and municipal corporations may possess this great power by delegation from the Legislature, but beyond these it should not go. Only in cases of clear public convenience and necessity has the transgression of these limits ever been countenanced, and then only under the strongest safeguards and most stringent regulations. If this great power is to be delegated ad libitum to private corporations what protection are the people to have in their rights of property? Take, for instance, the real estate in Indianapolis. It is taxed, first, by the State; next, by the city; next, by each one of the ten or twelve railroad corporations; next, by five or six manufacturing associations; and so on without limit, until it is literally taxed out of existence.

Now, by these acts this great power of taxation, under the guise of assessments, has been delegated, in its widest and most unrestricted form to mere private corporations. If it is to be extended to one class, there can be no justice in withholding it from others. I tell you, Mr. Speaker, in the enactment of these laws you have gone beyond the constitutional limit, and I demand, in the name of the suffering people of Northern Indiana, that this body instantly take the backward step into the province of just and legitimate legislation.

EMINENT DOMAIN.

Another one of the highest attributes of sovereignty is the right of eminent domain.

This is defined to be "the right of the sovereign government to appropriate and control individual property for the benefit of the whole State."

Before any law can be justified as an exercise of this great department of legislative power it must clearly appear that the destruction of individual rights, and the appropriation of individual property which it contemplates are "for the benefit of the whole State." If the benefits to arise from its operation are to be confined to any part of the community less than the general public, the act can not be referable to the right of Eminent Domain.

The purpose of the acts under discussion is to authorize the draining and protecting of wet lands. In the very nature of things their operation and their benefits must be confined to a few localities, comparatively small both in population and territory. In what department of legislative power, then, must we seek for a justification of these laws? Clearly not in Eminent Domain, because, both in their operation and benefits, they are local and not general.

POLICE POWER.

There is a branch of legislative authority known as the Police Power. It has been justly termed "a power without a definition." It is not accurately bounded or defined by any judicial authority, but "embraces among its prominent objects the preservation of peace and order, of health and morals, and the regulation of rights and duties of neighborhood." Cooley's Con. Lim. p. 572. Its principal maxim is "enjoy your own property so as not to interfere with the rights of your neighbor." It contemplates no mammoth combinations, nor general public enterprises. It subjects the property of the individual to the rights of his neighborhood, and its distinctive feature is that it is applicable only to individual intercourse in the smallest local sense. As contradistinguished from the right of eminent domain, an able counselor has said that "it subjects the citizen, in respect of his property, to the rights of his neighbor, while the eminent domain subjects him in respect to his property, to the exigencies of the State."

Obviously, these drainage acts are not referable to this department of legislative power, for while their operation may, in a few exceptional instances be confined to small neighborhoods, they may be extended to the whole of a great watercourse with all its adjacent territory, or to a great region of wet lands, with its thousands of owners.

Where, then, I ask again, shall these laws be ranged? To what department of constitutional legislative power shall they be referred? As they grant to private corporations an unbounded power of taxation, they transgress the just limit of legislative authority.

They are too narrow to be referred to the right of Eminent Domain, and too broad to be referred to the Police Power.

They are without legitimate parentage; they are the bastard offsprings of fraud and arbitrary power.

THE LAW A JOB.

These laws were enacted, not for public benefit, but at the instance and by the procuration of the Kankakee Valley Draining Company, and while the Legislature doubtless acted in good faith, the Company had no object in view except its own profit. I know I have made a broad assertion, but I believe I can prove it to be true.

I hold in my hand the record in the case of O'Riley vs. the Kankakee Valley Draining Company, appealed to the Supreme Court from the Newton Circuit Court. In the answer of the Company to the complaint in that case, I find these words: "Thereupon said Company authorized and directed its President to apply to the General Assembly of the State for an amendment of said law, (the law of 1867,) and at his instance and request, and chiefly by his procuration, in the interests of said Company, the said act of May 22, 1869, was passed."

Again, in the Prospectus issued by the Company, to which I referred a while ago, on page seven I find these words: "Further legislation being desired, the Company applied to the Legislature at its session in January, 1871, for the enactment of a supplemental law, which was passed by the unanimous vote of the Senate, and a large majority of the Lower House, and was approved by the Governor on the 23rd day of February, 1871."

Again, in General Cass' speech in Indianapolis, to which I have before referred, he used these words: "The Company was represented before the Legislature by its President, and that body in 1871 passed a supplemental act in many respects superior to the first one, and which was generally satisfactory to the Company."

My statement was that these laws were enacted in the interest of the corporation, and I believe I have sufficiently proved it, although but a small part of the available proof has been adduced.

HOW THE LAW HAS BEEN ABUSED.

This corporation was organized, as its Articles of Association show, for the purpose of straightening the channel of the Kankakee river and draining the swamp lands lying in the Kankakee Valley. The river rises in the extreme north part of the state, in the county of St. Joseph, and flows in a south-westerly direction through eight counties, crossing the western line of the State into Illinois, where it turns northward and empties into the Illinois river. Its whole course in Indiana lies through marshy swamps where much of the rich soil is most of each year covered with water, and is therefore in its present condition generally worthless, although a great part of the lands are dry and very productive.

To carry out its purposes, the company has levied assssments upon all lands bordering upon the river from the State line to the headwaters of the river, a distance of nearly a hundred miles. The strip of country assessed varies in width from eight to twenty miles. By reference to page 7 of its Prospectus I find this statement: "The surveys have been made, and the cost of the entire work estimated at $1,500,000. Six hundred and twenty-four thousand eight hundred and seventy-two acres of land have been assessed as liable to be affected by this work, the present value of which is appraised at $3,798,321, and the benefits exceeding injuries by $4,644,010."

Let me recapitulate: It has assessed 624,872 acres of land.

Amount of assessments above injuries	$4,644,010
Value of the lands	3,798,321
Excess of assessments above the value of the land	$ 845,689

I referred some time ago to the fact that the assessments might be made without regard to the value of the lands, and here is the sequel. They are actually assessed for nearly a million of dollars more than they are worth, although a great deal of the land is dry and under cultivation.

But another fact:

The assessments are	$4,644,010
The estimated cost of the work	1,500,090
Leaving a surplus of	$3,144,010

Why have they levied more than three times the amount required to do the work? And what disposition is to be made of this immense balance? It must be paid, and there is no provision in the law that any part of it shall be returned by the Company to the people. It is simply that much clear profit. "The court awards it and the law doth give it" It is sheer flat robbery, and deserves no better name.

Of course it is absolutely impossible for the humble farmers of that region to pay these terrible assessments, for the simple reason that they have not the money to pay with. The result will be, of course, that their lands will be sold, and bought in by the corporation, or by the adventurers who compose it. Scarcely a single individual will escape. And almost the whole of that wide valley will pass into the

hands of these unprincipled sharpers. And this is exactly what they foresaw and intended from the beginning. Every single man I believe who was in the original organization of that Company was a non-resident capitalist. A few residents afterwards became members, but have withdrawn from it, and their names are now here on this petition, together with twelve hundred others, praying for the repeal of the law. In General Cass' speech in Indianapolis he used these words: "I have said to land owners I will take your lands, pay for the drainage, and when reclaimed sell them and share the profits with you." Here is the coolest impudence I have ever met with. He extends this invitation to the poor land owner: "Go away and leave your homestead; I will take charge of it; I will pay the assessments on it to myself; that is, I will take the money out of my right pocket and put it into my left pocket; you will lose your land; but I will get it for nothing you know, and that will make it all right." And this is exactly what I charged his purpose to be.

But, Mr. Speaker, the work proposed by this Company will never be accomplished. I don't believe they ever intended to do what they pretend. They were first organized under the old law of 1868. They have now been a corporate body four years, and not one stroke of work has yet been done; not a single inch of earth has yet been turned. They have done nothing except harrass the people, and hawk their bonds about the streets of eastern cities for sale. It is uncertain whether any of them have yet been sold or not. For the sake of the people I hope not. But I warn them that their days of grace are at an end, and in one hour from this moment this disgraceful law will be a thing of the past.

THE PROPOSED WORK IMPRACTICABLE.

But, Mr. Speaker, the work which they propose is impracticable. It is their purpose, as shown in their surveys, to straighten the Kankakee river by running an immense ditch its whole length within this State. About midway in its course through the State the river bends to the south, and then back again to the north, making a grand curve some twenty miles in length. This curve it is proposed to straighten by running a ditch directly from one of its points to another. The ditch will be about an average of four miles north of the present bed of the river, in the curve, and will occupy, to the river, exactly the same position that the string occupies to a tightly strung bow. Now, water will naturally seek the lowest level. So, as might have been expected, the ground where the ditch will run at this point is about eight feet higher than at the river. If they should dig their ditch eight feet deep the bottom of it would be precisely on a level with the surface of the river. To add to this folly, they propose to cut a lateral ditch for the purpose of draining off the water which now lies south of the river. This lateral ditch is to cross the present channel of the river, in the curve, and carry the water up-hill to the main ditch.

QUICKSAND.

But such ditches as they propose can not be dug along the course of that river. A few feet from the surface, I am told, they will strike quicksand, and there they must stop.

THE DAM AT MOMENCE.

But the Kankakee Valley can never be drained by any scheme of this kind. At the town of Momence, in Illinois, nine miles from the Indiana line, the river falls, and beyond this point its course is between sufficient banks and through a fine country.

At Momence there is an immense natural dam of stone, and over this the river rushes in foaming rapids for some ten or fifteen miles. The valley above the Indiana line is a low basin, and the river moves through it with slow and sluggish current. The river may in course of time cut a deep channel through this stone dam, and when it does the lands on its upper waters will drain themselves. No company can get the water out of this basin by cutting ditches. You might as well try to drain Lake Michigan by cutting a trench across its basin. The way to drain the valley is to blast out the stone dam at Momence. This dam being in Illinois, is beyond the control of a corporation formed in Indiana. It can only be removed by compact between the two States, or by the General Government.

Mr. Speaker, it is clear that this company is powerless for good, but it is terribly powerful for evil. Already dismay has seized the people of that unfortunate valley. I hold in my hand the printed calendar of the September Term, 1872, of the Porter Circuit Court. It shows two hundred and fifty-nine lawsuits now pending in that court against the company. As many more are upon the docket of the Common Pleas. Four thousand lawsuits are burthening the courts and distracting the people of the Kankakee Valley. We can relieve them all in twenty minutes from this instant, and I solemnly believe the hour of their deliverance is at hand

Gentlemen say we can not destroy vested rights by repealing the laws. It is true that no legislation can destroy vested rights, but the people say, "Save us for the future, and our courts will protect us so far as they can in the present."

In the language of the gentleman from Wayne, "We will break the back of this monster and let it sink in the swamps of the Kankakee."

When he had concluded the bill was finally passed the House—yeas 89, nays 1, with an amendment to the title, "saving the operations of those whose works are ten miles in length or under."

Mr. SHIRLEY submitted a resolution (which was adopted) instructing the Committee on the Judiciary to report to the House, by bill or otherwise, whether any legislation is necessary, with regard to redistricting the State for judicial purposes, so as to equalize the labor of the judges and increase their salaries.

The House then adjourned.

THE

BREVIER LEGISLATIVE REPORTS

THIRTEENTH VOLUME.

INDIANA LEGISLATURE.

IN SENATE.

WEDNESDAY, December 11, 1872.

The Senate met at ten o'clock pursuant to adjournment.

Prayer was offered by the Rev. Mr. Moran, of the Fourth Presbyterian Church. Among other things for which he thanked God, was "the presence of this body of legislators; the tallest and the heaviest, the handsomest and the wisest, and the purest ever convened in the State."

MADISON RAILROAD BILL.

Mr. FRANCISCO moved that the regular order of business be dispensed with that the bill [H. R. 70] might be considered.

Mr. FRIEDLEY, of Scott, in consideration of the wishes of the people in the section more particularly effected by the bill, hoped the Senate would take it up.

Mr. ROSEBRUGH also hoped the motion would be agreed to.

It was so ordered.

Mr. DITTEMORE entered a motion to reconsider the vote adopting a resolution allowing stationery and stamps to employes of the Senate.

A motion was made by Mr. SLATER to dispense with the constitutional restriction, that the bill [H. R. 70] may be advanced to its final reading.

It was agreed to accordingly.

The bill [H. R. 70] to enable counties bordering on State lines or rivers bordering such counties, to aid in building bridges or the construction of railroads in the counties opposite, passed its second reading.

Mr. FRANCISCO moved to consider the bill as engrossed.

The motion was agreed to.

The bill was accordingly read the third time by sections.

Mr. NEFF said he was opposed to the bill. He had now in his possession a petition signed by over a thousand tax-payers of his county protesting against the passage of any bill to authorize taxing the people in aid of railroads. And he himself believed such taxation was unwise and unjust. Railroad corporations now govern the whole country. It is impossible to pass any law to regulate freight and passenger tariffs. Legislation can do nothing for the people, and the people are complaining bitterly.

Mr. GOODING thought the gentleman should not object. The bill provides that no taxes shall be levied until two-thirds of the voters shall have petitioned for it, and he thought they might be trusted to take care of their own interests. He represented a county bordering on the Ohio river, and they hoped at no distant day to subscribe to a railroad running south, which would be of the highest value to them, and he thought they ought to be permitted to judge of their own interests; and as the bill requires the consent of a majority before the aid can be voted, there can be no danger in passing an act of this character.

Mr. ROSEBRUGH believed that inasmuch as this question is to be decided by a majority of the people of the county, they

will be slow to vote such aid unless very great benefits are to be derived from it. He would vote for it.

Mr. FRIEDLEY, of Scott, stated that this bill may be of very great benefit to the people not only of Jefferson county, but of the entire State, and he hoped the Legislature would vote upon this measure favorably. He said the object of the bill was to connect the Jeffersonville and Madison road with the road running from Chattanooga, Tennessee, to Eminence, Kentucky, which would make the line to Chattanooga 108 miles shorter than by any other route. This connection would cost but $200,000, and they would then obtain what Cincinnati would give $10,000,000 to obtain.

Mr. SLEETH said he would be glad to vote for the bill, did it not contain some of the mischievous features of the law of 1869, especially in providing for the levy of the tax before the location of the road. Serious injury had resulted from this provision, and he wanted this bill amended so as to provide that the road should be located in a satisfactory manner before the taxes were levied. He would like to see several other conditions and resolutions in the bill, which he named. He would not make the levy a lien upon the property until the road be located. The bill was not read before it was ordered engrossed or he should have proposed this amendment.

Mr. GOODING was sure there were good and sufficient guards thrown around the bill. He thought the rights of the people were sufficiently protected by it. Still he was in favor of the passage of a bill providing that no money should be collected or paid over until the railroad, or a portion of it was built. But he hoped this bill, which had passed the House with but one dissenting voice, would not be killed here.

Mr. BROWN defended the bill. He said it gave the subscribers to the stock of the railroad the right to prescribe themselves the terms upon which the money shall be paid to the company. It also provides that the subscriptions shall be due only as the work is done to the amount of the subscriptions. Surely with these safeguards the people would be in no danger.

Mr. ORR opposed the bill on principle. He was decidedly opposed to the principle of taxing the people for the purpose of building railroads and he should have to vote against the bill.

Mr. GLESSNER desired but failed to obtain unanimous consent to offer an amendment that no part of the money shall be collected or paid until the road be permanently located, nor shall any tax levied be a lien upon the lands or property until such location be made.

Mr. THOMPSON said that, to accommodate the people in the south part of the State, he should favor and vote for this bill —ordinarily he would oppose such a bill as this, but this seemed to be an extraordinary case. The town of Madison was seeking to open a connection not only for herself but for the whole interior of the State with one of the finest thoroughfares in the country. The advantages to be derived from it were so manifest that he should vote for the bill.

Mr. DITTEMORE demanded the previous question and under its operation the bill passed by yeas 39, nays 5. Mr. Smith and Steele explained their vote in the affirmative.

A COURT BILL.

Mr. MILLER moved to suspend the order of business for the consideration of the bill [H. R. 69] a bill local in its character, affecting courts in his district.

Mr. BROWN opposed the motion. He said the facts were these: Some gentlemen ran for office in that Circuit and got beaten, now they are seeking to create this new Circuit in order that an appointment might be made. In other words, it was a little job to get somebody into office. He moved ineffectually to lay the motion on the table.

Mr. GLESSNER announced that Mr. Daugherty, who is sick and confined to his room to-day, desired that this bill should not be acted upon in his absence.

Mr. DAGGY stated that the bill was o considerable importance to the locality, and was satisfied it is essentially necessary that they should have this new Circuit. The business in the courts of these counties is behind several years, and they need a new District.

Mr. SMITH withdrew his motion out of respect for the sick Senator (Mr. Daugherty.)

Mr. DWIGGINS moved to make the bill the special order for to-morrow at ten o'clock a.m.

This motion was agreed to.

JUDGES SALARIES.

Mr. RHODES, from the Committee on Fees and Salaries, returned the bill [S. 9] fixing the salaries of the Judges of the Courts in this State with a recommendation by the majority that the bill be amended as indicated in the accompanying report.

The bill provides that the salaries shall be as follows:

Supreme Court, $5,000; Superior Court, $4,000; Circuit Court, $3,500; Common Pleas, $2,500; Criminal Court, $3,000.

The majority of the committee recommend the salaries shall be as follows:

Supreme Court, $5,000; Superior Court, $3,500; Circuit Court, $3,500; Common Pleas Court, $3,000; Criminal Court, $2,500.

Also an amendment making the salaries of the Superior and Criminal Judges payable one-third out of county treasuries and remainder by the State; those of the Common Pleas Judges out of the treasuries of the counties composing the districts in proportion to population, and all salaries payable on the first Monday of January, April, July and October.

Mr. NEFF submitted a minority report recommending that the bill be amended by reducing the sums proposed to be paid the judges of the Courts as follows:

Supreme Court, $4,000; Superior Court, $3,600; Circuit Court, $2,500; Common Pleas Court, $2,000.

Both reports were laid on the table and made the special order for this afternoon at half past 2 o'clock.

RAILROAD TARIFF.

The PRESIDENT announced the special order for this hour being the bill [S. 6] to regulate railroad freight and passenger rates, on its second reading.

The Committee amendment to the first section by appropriately inserting the words "or other companies or persons" was agreed to.

The amendment striking out the second section was agreed to.

The amendment changing the numbering of the sections was agreed to.

The amendment to the fourth section similar to the amendment to the first section was also agreed to.

The amendment adding the fifth section was also agreed to, making the provisions of the bill apply to all common carriers.

Also, the amendment providing that nothing contained in the bill shall be construed to exempt from the common law and duty applicable to common carriers, in carrying freight and passengers for a reasonable compensation.

Mr. WILLIAMS moved to amend section 4 by providing that any officer, agent or employe who shall receive compensation for any package in violation of the provisions of this act, shall be deemed guilty of a misdemeanor, and on conviction may be fined in any sum not less than $1,000, and be imprisoned for a term not exceeding twelve months.

It was agreed to.

Mr. HARNEY moved to insert in section – the words "to and from each station to any other station on the road."

It was agreed to.

He also moved to add a section providing that any railroad violating section 4 of this act shall be liable to action for damages by any person aggrieved by overcharge: and that the rates of freight charged between the termini of the road or between any two competing points shall not exceed in amount the rates of freight from any intermediate point to any other intermediate point or from any intermediate point to the terminus. This invidious distinction between points that are not competing and between competing points is one of the greatest evils the people of the State are subjected to at the hands of the railroads.

This amendment was also agreed to.

Mr. HOUGH moved to amend by striking out the word "100," in line 68 of section 1, and inserting in lieu "50;" also "75" in line 9, and inserting in lieu "40;" also "50" in line 12, and inserting in lieu "25;" also the word "3" in line 3, section 2, and inserting in lieu the word "2," and the word "3" in line 7, section 4, and inserting in lieu the word "2," so as to change the rates of freight carried not more than twenty miles from not more than 100 per cent above the through rate to not more than 50; more than twenty and not more than fifty miles, from not more than 75 per cent. to not more than 40; and for a greater distance than fifty miles from not more than 50 per cent. to not more than 25 per cent. Also, to limit the rate for passengers to 2½ cents per mile.

Mr. HOUGH would not willingly do anything that would cripple a railroad, but while being fair to them, we should be just to parties who desire to patronize them. The rates now charged are certainly too high, and the bill does not secure the end the author desires.

On motion of Mr. DITTEMORE, the amendment was laid on the table.

Mr. ORR moved to amend section 2 by striking out the words "one half" so that it will read, "shall not exceed the rate of three cents a mile."

The motion was agreed to.

Mr. SCOTT moved to add a section repealing all existing laws.

The motion was agreed to.

Mr. DWIGGINS moved to amend by excepting from the operation of the bill all railroad companies whose roads have not been operated for five years, unless such roads are leased by, consolidated with or

erated by a company whose road shall have been in operation more than five years.

On motion of Mr. DITTEMORE, the amendment was laid on the table.

On motion of Mr. WILLIAMS the bill was considered engrossed and read the third time.

Mr. SCOTT, who had made several ineffectual efforts to offer an amendment to the bill, begged permission to say a few words. Leave was granted, and he said he was decidedly opposed to the bill, because it would work great harm to his constituents, who lived at a terminus of a railroad. The bill regulated local freights, but made no provision for determining the rate of through freights. There was nothing in it to prevent a railroad from doubling or trebling its through freights. There is scarcely a road in the State that is paying a dollar on its stock. It is all they can do to live. Now, if the rates of local freights are reduced, they must add on at the other end to make up the deficiency. The result would be that the people of this district would have to pay two or three or four times the amount for carrying their freight than they do now. More than that it would operate as a discrimination against several corporations. The rich companies would not be sensibly affected by the provisions of the bill, but the weak corporations which have but little life in them and are struggling for existence would be blotted out. As a citizen, living at the terminus of a railroad, he opposed this bill because his people would have to pay three to six times for through freight more than they do now, if this bill is passed into an act; for unless the railroads do increase their charge for through freights they can not carry local freights and make enough to pay the interest on their bonded debt or their running expenses. But two railroads in this State are now paying more than this. He opposed making his people pay enormous rates of freight for the benefit of people living along the line of the road at intermediate stations.

At the conclusion of Mr. Scott's remarks, the Senate took a recess until 2 P. M.

AFTERNOON SESSION.

At 2 o'clock the Senate resumed the consideration of the order pending.

Mr. ROSEBRUGH demanded the previous question.

The Senate seconded the demand.

Mr. DITTEMORE demanded a call of the Senate, and it being ordered and taken, discovered forty Senators present.

The bill passed the Senate by ayes 37, nays 6, as follows:

YEAS—Messrs. Armstrong, Beeson, Bird, Boone, Bowman, Brown, Bunyen, Carnahan, Cave, Daggy, Dittemore, Dwiggins, Friedley of Scott, Glessner, Gooding, Gregg, Hall, Harney, Haworth, Hough, Hubbard, Miller, Neff, O'Brien, Orr, Rhodes, Ringo, Rosebrugh, Sarnighausen, Slater, Smith, Steele, Stroud, Taylor, Thompson, Williams, and Mr. President—37.

NAYS—Messrs. Beardsley, Collett, Howard, Scott, Sleeth and Wadge—6.

Pending the roll call, Mr. BOONE, in explanation of his vote said, while he regarded the bill as imperfect they would have to commence legislation at some point. He was willing to let the courts point out their mistakes.

Mr. COLLETT believing the bill to be improper and unconstitutional and doing a great injustice to young lines of railroads and particularly to the North & South railroads, should vote "no."

Mr. DAGGY, when his name was called, declared that he didn't understand the bill, and voted in the dark and at random. He had been impressed with the idea that a bill of this kind could not be made effectual, that it was unconstitutional and void. Still he felt bound by the known wishes of his constituents to vote for the bill as expressing the wishes of his people.

Mr. DITTEMORE in explanation of his vote said, while the bill in its present shape did not meet his entire approbation he was willing to vote for it and let the responsibility as to its constitutionality devolve upon another branch of the government.

Mr. DWIGGINS, when his name was called, said the bill was not what he would have liked. It seemed to him that the freight tariff should have been fixed in the same way as the passenger tariff, that is, at so much a mile for a certain distance for a certain class of freights and so on. He also doubted its constitutionality, but was willing to leave that to the courts. His opinion was that the benefits of the bill would accrue to the railroad companies. They have authority under the bill to make through tariffs just what they choose. The consequence will be that they will put up their through freights and do a through business, leaving local business undone. The trouble now is that men living at local points can not get cars to do the business. In Northern Indiana to-day there are granaries full of grain, and have been for the last twelve months. The shippers are willing to pay the prices demanded, but they can not get the cars. The companies use all their cars for through business. He thought this bill would aggravate that trouble. He had some amendments that he wished to offer, but they were cut off by the motion to

engross. Still he should vote for the bill, believing that it was a step in the right direction, though a very bungling one.

Mr. FRIEDLEY, of Scott, in explanation of his vote, said he didn't like the bill, but his people were very clamorons for some such measure, and he should therefore vote aye.

Mr. GOODING, like some others, felt compelled to vote for the bill under protest. He approved some of its features and disapproved others. Still it was a step in the right direction, and its defects might be remedied hereafter.

Mr. HARNEY, when his name was called, said the bill had some objectionable features, and might prove inoperative, but it would bring the attention of the people and of railroad men to the subject, and this bill may in time be the means of arriving at some proper measure. He thought a reduction in tariff would result in worse accommodations. Still he voted for the bill.

Mr. HAWORTH, when his name was called, said he did not understand the bill in all its features, but being favorable to something of the kind, and his people desiring it, he voted aye.

Mr. HOUGH, in explanation of his vote, said his constituents demanded that something be done for the reformation of railroad management, and he was constrained to vote aye, believing, however, that the bill would prove partly inoperative, but might be a step in the right direction.

Mr. HOWARD, in explanation of his vote, said if this bill met the demands of its friends it would be the destruction of the only road in his county, and not being prepared to vote against the wishes of his people he voted no.

Mr. O'BRIEN voted for the bill more as an expression of popular sentiment than in hope that it would be effective. On yesterday he said he would be compelled to vote against the bill in the shape it then was, but he changed his mind because the bill has been amended since, and because the people demand some legislation of this kind.

Mr. SCOTT would vote against the bill simply because it discriminated against his people. It must drive through freights away or increase the rate seriously.

Mr. SLATER had no excuses to make in voting for the bill.

Mr. SLEETH, said if he was convinced that the passage of the bill would be nothing more than an expression of the sentiment that prevails in this country to regulate local freights, he could consistently and conscientiously vote for it. If he was sure the Courts would support it or strike it down entirely, he could vote for it. But what he apprehended was that the Courts might support the bill in its application to roads organized under the general railroad law, because we have a right to legislate upon them, and that they would strike it down and hold it unconstitutional as applied to railroads that are operated under a special charter granted under the old constitution. If that should be the case, then one class of roads would be controlled by the operations of this bill and another class would not be controlled at all except by the operations of the common law.

He could not risk a vote in favor of the bill for a mere expression of opinion, with that state of affairs staring him in the face. Again, there were objections to the bill aside from the constitutional question. Some amendments that he conceived the friends of the bill ought to have permitted to be made. For instance, an amendment should have been adopted providing that the rates of frieght mentioned in section one should be upon freights of the same class going in the same direction. There are four classes of freight. The rate upon the first class from New York to Indianapolis is $1 18; the rate upon the fourth class is only 65 cents. In making this discrimination it ought to be made to apply to the same class of freights. If not, they may adopt the highest rate of through freight, and apply it to all classes. Again, it is questionable what construction might be placed on the term "through freights." He had before him the report of the Commissioner of Railroads of Ohio, and the term "through freight" in that report always means freight that is loaded on the car and the car run on another road to be transported. All there is to do is to couple it onto a train to carry it over the road and pass it to another company. But freight that is taken in the parcel at the depot, and loaded onto the cars, is not through freight. Take freight from Nashville, for instance. It is brought across the bridge at Louisville, and the Jeffersonville, Madison and Indianapolis road takes it and brings it to Indianapolis. They have nothing to do but haul it. That is through freight, and that class of freight they can afford to haul for a rate at which they can not afford to haul local freight, which they have to handle two or three times, nor for an advance of 100 per cent. But he apprehended that "through freight" as it is used in this bill, would be construed to be through freight as he had defined it. He knew that the gentleman

who introduced the bill meant freight carried to the line of the State of Indiana, and no further. But that is not the idea to be conveyed by the term through freight. For these reasons, believing that the passage of the bill would prevent the passage of a better bill at this term, which he most desired, he felt compelled to vote against the bill.

Mr. THOMPSON, when his name was called, said the universal cry of the people was that the railroads were imposing on the people along the lines of the several roads. One great advantage to be derived from passing a bill like this, even if it should be defeated in the House, by the Governor, or by the Supreme Court, is to let the railroad companies understand that the people look upon their course as oppressive. This is a mere expression of that feeling of the people towards the railroads. He believed it would have a salutary effect upon the railroads themselves; teach them that they can't have privileges from the State of Indiana and at the same time disregard the wants of the community.

Mr. WADGE, when his name was called, said he was decidedly and heartily in favor of any system of legislation which would protect the people against the encroachment of any monopoly, whether a railroad company, a coal company, a gravel road company, or a ditching company. But when called upon to vote for a bill he wanted the privilege of examining that bill and if it did not meet his views he certainly asked the privilege of giving the reasons why he dissented. He hailed from a rural district which he knew was already suffering to some extent from the want of facilities because of the superior competition or facilities that are furnished cities for the transportation of their freights, and he ventured to say that there were but few Senators who did not know that the inhabitants of local stations between large cities suffered more or less in consequence of the want of facilities. He believed this bill was drawn up in this city in the interest of this city and other cities, and not in the interest of those that are located on the line of railroads. The result of the provisions would be to cut off entirely the supply of railroad facilities to those small cities on the lines, and to kill very many roads in this State that are struggling for existence. Take, for instance, the New Albany and Salem Railroad. The provisions of this bill will virtually kill it if it becomes a law, which he did not believe. The consequent result would be that the whole section of country between Lafayette and Michigan City would be almost irrevocably ruined. Farmers would be deprived of what little facilities they have for the transportation of freight. He believed the bill would be wholly impracticable. He presumed that nobody would deny that the charge ought to be at least $6 for a car for five miles. Now, suppose the through rate is $3 a car five miles, what would be the charge from Indianapolis to Michigan City. It would be $96 a car in order to pay them. Their charge now is $28. In their local freights, where they have to charge according to the bill 25 cents per hundred for the distance from Indianapolis to Michigan City, they would be required to extend their through freight rate to that point to 50 cents, doubling it. A gentleman said some railroad company charged $66 a car for three hundred miles. If they put the rate up they would have to charge $180 a car for that distance—if they put up the rates to such a point as would make their local rates living.

Mr. DITTEMORE, interposing, are you in favor of the passage of any law to regulate local freights?

Mr. WADGE. I will vote for any law that in my judgement will regulate it, and I am desirous that some bill of that character should be introduced to restrain railroad companies from inflicting on the people overcharges. But I believe the present bill is wholly impracticable.

Mr. BROWN'S name being again called he said: "I havn't got the moral courage to vote against this bill; the Senate won't let me dodge; therefore I vote aye."

The title was amended at the suggestion of Mr. SCOTT, Mr. BROWN, and Mr. HOUGH.

JUDGES' SALARIES.

The President now announced the special order being the majority and minority reports submitted this forenoon on the bill [S. 9] to fix the fees and salaries of Judges of courts.

Mr. GOODING moved to postpone the consideration of this subject till Monday next at 2 o'clock.

It was agreed to.

DRAINAGE OF WET LANDS.

Mr. GOODING moved to suspend the regular order and take up the drainage bill—Mr. Chapman's [S. 88].

It was agreed to.

The question now being on Mr. Daggy's amendment, to require the petition for the improvement to be signed by a majority of the land owners who are liable to assessment therefor—

Mr. DAGGY asked but failed to obtain consent to withdraw his amendment.

Mr. O'BRIEN proposed to amend section nineteen by providing that no such assessment shall be a lien on any tract of land for a greater sum than the expense necessarily incurred in the construction of the work in proportion to the amount of benefits.

Mr. ROSEBRUGH objected to the withdrawal of the amendment offered by Mr. Daggy. The great evil of the Kankakee Company was in the right of a few to impose on the many, and he could not vote for a bill that did not recognize the rights of a majority to control.

Mr. DITTEMORE moved to lay the amendment (Mr. Daggy's) on the table, inasmuch as he could not obtain unanimous consent to withdraw.

The motion was agreed to.

The question recurring on concurring in the report of the Committee on Corporations—

Mr. BOONE moved to amend the report by adding to the 29th section a proviso that the rights, franchises and powers of incorporated companies, organized under prior acts, whose main line does not exceed sixteen miles in length, shall be saved unimpaired.

Mr. HUBBARD explained that it was desirable not to leave a single cloud upon smaller companies, so they may have the benefits of this bill, and hence the amendments proposed.

Mr. BROWN thought it best to strike out of this bill all having reference to repealing the acts named, and desired nothing left on the statute book that the courts can construe for the benefit of the Kankakee Drainage Company.

Mr. BOONE said the object of the sixteenth proviso was to wipe out the laws of 1869 and 1871.

His amendment was agreed to.

The report of the committee as amended was concurred in.

Mr. O'BRIEN moved to amend section twelve by striking out and inserting in lieu, after the word "statement" these words: "together with a detailed statement of the estimated cost in sections;" so that no assessments shall be a lien upon any tract of land for a greater sum than the estimated cost of the proposed works, or of making the repairs, etc., together with the necessary expenses of the company or association procuring such assessments, such expenses to be included in the statement of the estimated cost of the work.

The amendment was agreed to.

Mr. HUBBARD moved to amend the fifth section by making the articles of association evidence of the existence of the corporation in all courts in this State.

It was adopted.

He also moved to amend the same section by inserting the words "all persons who have paid their assessments in full may vote at any meeting of stockholders."

At the suggestion of Mr. BOONE the words, "on the question of repairs of such works" were added to the amendment.

The amendment as amended was then agreed to.

Mr. CHAPMAN moved to amend the thirteenth section by inserting appropriately the words, "in said county."

It was adopted.

Mr. HUBBARD moved the following: To further amend section 6 by inserting the words, "regular or adjourned" so that no notice need be given of such meeting; to further amend section 19 by inserting words requiring an affidavit from appraisers that they have personally examined the lands; to further amend section 13 by appropriately inserting the words, "appraisers shall be furnished with a copy of the plan and profile of their work."

These amendments were severally agreed to.

He also moved to amend section 21 by providing that unless such person be the owner of land, he shall present a bond.

This amendment was agreed to.

On motion of Mr. BROWN, the bill was ordered engrossed, and made the special order for to-morrow at ten o'clock, a. m.

Mr. HOUGH moved ineffectually for a suspension of the order of business that the bill [S. 2] in relation to private banking companies may be considered.

Mr. TAYLOR moved to suspend the order, to take up the bill [S. 5] providing that stock subscribed by counties to railroads, may be taken out of the control of County Commissioners and given to the men who paid the money.

EIGHT DOLLARS A DAY.

Mr. Brown moved to amend the motion so as to take up the bill [H. R. 73] as it proposes to increase his pay $3 a day.

The motion as amended was agreed to.

The bill [H. R. 73] fixing the per diem of members of the General Assembly, and providing they shall furnish their own stationery (eight dollars per day and five dollars for every twenty-five miles traveled) was passed to the second reading.

DISTRIBUTION OF RAILROAD STOCK TO TAX PAYERS.

On motion of Mr. BROWN, the bill [S. 5] to require railroad companies to issue

stock to individual tax payers who have paid taxes in aid thereof to the amount of the tax so paid, the unclaimed stock to be issued to the Township Trustees, to be held in trust for the benefit of the common school fund, was read the second time.

On motion by Mr. NEFF, the word "paid" was substituted for the word "levied," so it will read, "after the tax was paid," intead of "after the tax was levied."

Mr. COLLETT and Mr. SLEETH proposed amendments, which were adopted.

The Constitutional rule was dispensed with, and the bill was read the third time and passed the Senate by yeas 45, nays 0, with an amendment of title.

TWENTY-SIXTH COMMON PLEAS.

Mr. FRIEDLEY of Lawrence [Mr. Dwiggins in the chair] moved to suspend the order of business that the bill [S. 134] may be read the second time.

The motion was agreed to.

Mr. FRIEDLEY of Lawrence moved to amend the bill [S. 134] to create the Twenty-sixth Judicial District of the Court of Common Pleas, by a provision regulating the terms of the Courts.

The motion was agreed to.

Mr. FRIEDLEY of Lawrence moved that the bill be considered as engrossed, that the Constitutional requirement be dispensed with, and that the bill be read the third time now.

Mr. GLESSNER desired the bill should be referred to the Committee on the Organization of Courts.

Mr. SMITH moved that the bill be laid on the table and made the special order for to-morrow.

This motion was laid on the table—yeas 40, nays 4.

Mr. FRIEDLEY of Lawrence's motion to dispense with the constitutional restriction was agreed to. The bill [S. 134] was then read the third time and passed the Senate by yeas 48, nays 4, with an amendment of title, proposed by Mr. Friedley of Lawrence, declaring an emergency.

Mr. SCOTT, from the Committee on Education, returned the bill [H. R. 37] appropriating $8,000 for deficiency for the State University at Bloomington, with a recommendation that it pass.

The Report was concurred in.

The Senate then adjourned until to-morrow at 10 o'clock.

THE

BREVIER LEGISLATIVE REPORTS.

THIRTEENTH VOLUME.

INDIANA LEGISLATURE.

HOUSE OF REPRESENTATIVES.

WEDNESDAY, December 11, 1872.

The House met at nine o'clock a. m.

Prayers by the Rev. Mr. Cornelius, of the Garden Baptist Church, of this city.

On motion of Mr. GIVAN, the reading of the Journal of yesterday was dispensed with, except the record of the vote on the final passage of the bill [S. 85] to provide for the State bonds or stock [191] issued prior to 1841, etc., and the record was corrected as to total vote.

Mr. BLOCHER and Mr. BAKER desired to enter their votes in the negative on the passage of said bill.

Mr. BUTTERWORTH moved for an order that the Journal Company be requested to deliver their papers at seven o'clock in the morning, not caring for its adoption, but to call attention to the matter, which he supposed would be promptly corrected.

Mr. KIMBALL said the censure shall fall on those that distribute the papers.

ASSESSMENT AND COLLECTION OF TAXES.

Mr. KIMBALL, from the Committee on Ways and Means, returned the committee's (printed) bill [H. R. 163] to provide for a uniform assessment of property and the collection and return of taxes thereon, with an amendment, the words "valuation and taxation" to follow "lots of land."

The amendment was adopted, and the bill ordered to the engrossment.

Mr. BRANHAM. This is a very important bill—the most important of the session. It is an entire revision of the assessment laws; and I think I am right in saying it will reach a revenue of three or four hundred thousand dollars without raising the taxes.

Mr. SHIRLEY. The various foreign insurance companies doing business in the State draw a million of dollars annually from our citizens for premiums, and I think some provision ought to be made for taxing their gross receipts. I am unwilling that this bill should pass without such a provision.

Mr. KIMBALL. With reference to insurance companies there is a special bill for taxing their receipts.

Mr. GIVAN. I see on page 50, section 180, of the printed bill, that there is a blank —.

Mr. KIMBALL. It is filled. I will state for the information of the House that the printer made several mistakes; but the bill has been critically examined by the committee, and the mistakes are all corrected.

Mr. SATTERWHITE. Is there a provision in the bill for the assessment of taxes on shares in banks or banking associations, or capital used for the purposes of banking in bonds of the United States, or otherwise? The private banks in Indianapolis alone hold hundreds of thousands of dollars in this way and do not return a dollar for taxation. I see no reason why there should be discrimination in their favor and against the national banks taxed for municipal purposes. I would like to reach these private banks.

Mr. KIMBALL. There is a provision for the assessment of shares in banking

On motion of Mr. BRANHAM, the bill was referred again to the committee with instructions to report it to-morrow at ten o'clock as the special order.

FUNDED DEBT—STATE AGENT.

On motion of Mr. KIMBALL the bill [S. 141] in relation to the refunded debt of the State was taken up and read.

Mr. BRANHAM. This bill is like to that of the House on the third reading.

On motion the restrictions were removed and the bill was advanced to the third reading. The principal object of the bill is to abolish the office of Agent of State, and to transfer the State debt Sinking Fund to the General Fund. Its passage will save some $5,000 to the State annually.

The bill was finally passed the House of Representatives without amendment; yeas 88; nays 0.

Mr. KIMBALL. It strikes me that the title should express something more correctly in regard to the Agent of State, and it might be done by adding these words: "dispensing with the office of Agent of State." The bill is not to abolish the State's agency, but to dispense with the State Agent under the provisions of law.

It was so ordered by unanimous consent.

The SPEAKER laid before the House a communication from the Auditor of State, transmitting advance copies of that part of his report in relation to the State debt and the duties of the Agent of State in relation thereto.

A message was received from the Governor announcing the signing of the House Bills for the completion of unfinished business of one session by the next succeeding session; for the amendment of the act establishing the House of Refuge, and the bill making specific appropriations. Also, that the House Joint Resolution in opposition to the division of the State into two Judicial Districts had been transmitted to our Senators and Representatives.

SALE OF PATENT RIGHTS.

The SPEAKER took up Mr. Miller's bill [H. R. 115] to repeal the act of April 23, 1869, to regulate the sale of patent rights, etc., in its order on the third reading.

Mr. MILLER. The act proposed to be repealed is in the Third Indiana Statutes, page 364. It took effect in 1869 without the signature of the Governor, It is a good law, but it is in contravention of the Constitution of the United States. It has been so decided, because the laws of Congress authorize any man who has received a patent to sell it in any of the States of the Union. The only trouble with the law is that it is a dead letter, and its enforcement makes a man liable for false imprisonment.

The bill was finally passed the House of Representatives—yeas, 88; nays, 0.

REGISTRATION OF BIRTHS, DEATHS AND MARRIAGES.

Mr. Lenfesty's bill [H. R. 88] to provide for the registration of births, deaths and marriages, was taken up on the third reading.

Mr. COBB. I like some of the provisions of this bill; and, as the revenue laws are to be changed, I move to recommit the bill to the Committee on the Judiciary, with instructions to amend it by striking out the words "township assessors" whenever they occur in the bill, and insert the words "township trustees" in lieu, and make such other amendments as they may see proper.

Mr. LENFESTY. I am not really the author of the bill, although I introduced it. It was recommended to me by certain township officers. As I am informed that there will be an effort made here to create a bureau or board of statistics—a thing very much needed, that we may make a a complete showing to capitalists what are the resources of the State; and as I am very deeply interested in this bill, and as this matter is also in the other branch of the General Assembly, I concur in the motion.

And accordingly the bill was recommitted, with the proposed instructions.

DECEDENTS' ESTATES—WITNESSES.

Mr. WILSON of Ripley's bill [H. R. 118] making parties witnesses in reference to matters with executors and administrators, where contracts have been assigned to decedents, [which failed heretofore for lack of a constitutional majority] was again submitted to the vote.

Mr. WILSON defined it as providing that where contracts have been assigned to the decedent, and the assignor is living, he shall be a competent witness, and the defendant and the administrator shall also be competent witnesses as to matters between the assignor and the defendant.

Mr. CAUTHORN. I submit the point of order under our rules, that this bill having once failed for want of a constitutional majority, if it passes now it must be without debate.

The SPEAKER sustained the point, and the bill was finally passed the House of Representatives—yeas 51; nays 30.

TOWN SHADE TREES.

Mr. TULLEY'S bill [H. R. 128] empowering boards of trustees of incorporated

towns to compel owners of lands to plant and maintain shade trees thereon, was taken up in order and finally passed—yeas 65; nays 15.

Mr. WOODARD submitted a motion to reconsider this vote.

Mr. OFFUTT had voted against this bill but if he had thought it would pass he would have voted for it, and made this motion himself to reconsider. It is wrong to compel owners of property to pay for mere ornamentations which they do not want. It is in derogation of common law rights. It ought not to pass for this reason. It would work hardship on small property owners if they are compelled to erect ornaments worth a hundred dollars or so. There is already a law to compel grading and sidewalks, which is right; there is utility in it; but to compel mere ornamentation is wrong.

Mr. WOODARD. We might with the same propriety say that every man in town shall build a brown stone house.

Mr. BAKER considered that the provisions of the act of March 14, 1857, go far enough in this direction.

Mr. RENO concurred in this opinion.

Mr. LENFESTY. This bill provides that shade trees shall be supplied where the public convenience require them. The poor man could not be required to pay anything like the sum suggested. Three dollars will secure all the trees that could be required for three or four hundred dollars' worth of ground. The bill is right, and the vote should not be disturbed.

Mr. SHIRLEY did not think this bill a step beyond what should be the law in regard to shade trees. Nothing so cheap can add so much to the comfort and salubrity of any place.

Mr. TULLEY. The bill provides that shade trees shall be planted where, in the opinion of the board, they are requisite. It must be done by the will of a majority of the board. Shade trees are well worth their cost as a preventative against fire, and they are health promoting and a preventive of drouth.

Mr. BUTTERWORTH. The late fire which destroyed the business portion of our town (Mishawaka) was stopped at length by the shade trees.

Mr. BUSKIRK called attention to the fact that shade trees, by their purification of the atmosphere, are protective of public morality. Filth and vice go together, and cleanliness is a virtue. This consideration alone was sufficient to commend the bill to his mind.

On motion of Mr. GIFFORD, the motion to reconsider was laid on the table.

INDIANA UNIVERSITY.

Mr. Furnas' bill [H. R. 56], authorizing an annual appropriation of $20,000 to the State University, was read the third time.

Mr. GIVAN spoke in favor of the bill, holding that the people were in advance of the Legislature on this subject, and that the demand of the times was for placing the State University upon the ground contemplated by the act, establishing it at the head of our common school system.

Mr. SHIRLEY would oppose any further appropriations to colleges and higher institutions of learning while the common schools were unprovided for—so that the children should have the benefit of at least six months' schooling in every year. Now in many country districts they are only afforded three or four months schooling annually. The higher institutions of learning were, as a rule, only available to those who have the ability to pay for a higher grade of education, and he would oppose any further appropriations to such institutions until every child in the State should be provided with the means of securing an elementary education.

Mr. RICHARDSON opposed the bill upon the same grounds.

Mr. KIMBALL. The State of Indiana should not neglect her University. The common school fund of Indiana is in excess of any other of the younger States of the Union. The State University occupies an enviable position in the eyes of the world, and it should be in the hearts of the people of Indiana. It is a part of the system of common schools, and I would be willing to appropriate the last dollar in the treasury to advance the interests of education. Nearly four millions of dollars in bonds of the United States constitute the common school fund of this State, and this, besides the tax of sixteen cents on the $100. And hence the common schools and the State University should have a corresponding higher point of advancement than they attain in those neighboring States. The University should not go down. It seems to me that every man ought to feel as I do about keeping it up.

Mr. WOOLLEN. I am in favor of the passage of the bill. The Committee on Education is a prudent and an important committee, and I am willing to stand by the report they have made. Their concessions give no evidence of flimsiness, but set forth actual needs of the University. This cause is mine—it is the cause of Indiana; and the University is her child. Shall we bastardize it and let it perish? or shall we give to it the support and fostering which it so much needs? There

Jefferson would have no other epitaph than this: "Here lies the author of the Declaration of Independence and the father of the University of Virginia."—When he had concluded—

Mr. MELLETT said the gentleman from Johnson has made my speech for the bill. The proposed appropriation would make the annual support of the University about thirty-six or thirty-seven thousand dollars; and this sum is less by nearly one half than the annual proceeds of the endowment of the Michigan State University. When he had concluded—

Mr. WILLARD demanded the previous question and there was a second to the demand. Under this pressure the bill was brought to the vote and failed again—Yeas 45, nays 44—for lack of the constitutional majority of all the members.

The House then took a recess till two o'clock p. m.

AFTERNOON SESSION.

The House was called to order at two p.m. by the SPEAKER, who announced the special order, being the consideration of Mr. Heller's motion to reconsider the vote by which Mr. Wilson, of Ripley's bill [H. R. 73] to fix the per diem and mileage of members of the General Assembly at $3 a day, failed for want of the constitutional majority.

Mr. WOODARD moved a call of the House, which was ordered, and 85 members responded to their names.

Mr. BRANHAM moved to dispense with further proceedings under the call; which was agreed to.

Mr. KIMBALL moved to dispense with the special order and take up his railroad bills 151 and 152.

The motion was rejected.

Mr. LENFESTY moved to lay Mr. Heller's motion to reconsider the vote by which the mileage bill [H. R. 73] failed to pass on the table

Mr. OFFUTT demanded the yeas and nays, which resulted—yeas, 32; nays, 67.

So that motion being rejected, the question recurred upon Mr. Heller's to reconsider the per diem bill.

The motion to reconsider was agreed to, and the question again recurred on the final passage of the per diem bill [H. R. 73] The vote (which was taken without debate) resulted—yeas, 51; nays, 40, as follows:

YEAS—Messrs. Anderson, Baker, Billingsley, Bussert, Cauthorn, Cobb, Coffman, Cole, Cowgill, Eaton, Edwards of Lawrence, Gifford, Gregory, Gronendyke, Hardesty, Hedrick, Heller, Henderson, Hoyer, Isenhower, Johnson, Jones, Kimball, Leat, Martin, Miller, Odle, Offutt, Ogden, Peed, Reeves, Richardson, Riggs, Rumsey, Schmuck, Shirley, Strange, Teeter, Thayer, Thompson of Spencer, Tulley, Walker, Wesner, Willard, Wilson of Ripley, Wood, Woodard, Wolflin, Woollen and the Speaker—51.

NAYS—Messrs. Baxter, Blocher, Branham, Brett, Broadus, Butts, Clark, Claypool, Cline, Crumpacker, Dial, Ellsworth, Eward, Furnas, Givan, Glasgow, Goble, Gondie, Hatch, Hollingsworth, King, Kirkpatrick, Lenfesty, McConnell, McKinney, Mellett, North, Pfrimmer, Reed, Rudder, Satterwhite, Scott, Shutt, Smith, Stanley, Tingley, Thompson of Elkhart, Troutman, Wilson of Blackford, Wynn—40.

So the bill was finally passed the House of Representatives.

RAILROAD RETURNS—TAXATION.

On motion of Mr. KIMBALL, his railroad returns bill [H. R. 151] to amend the act of March 11, 1867, was taken up, the question being on the third reading.

Mr. BRANHAM. All the change proposed to be made in the late law is this: it proposes to change the time of making their reports to the Auditor from the 10th of January to the first Tuesday in February. It also fixes a penalty. Hitherto the law has been without penalty, and the

On motion by Mr. STEELE, this motion was laid on the table.

Mr. NEFF, as a general proposition, was opposed to the creation of new circuits, but was satisfied some relief is needed in the district affected by this bill, and for this reason alone he should favor its passage.

Mr. DWIGGINS demanded the previous question.

The demand was seconded by the Senate, and under its operations the constitutional requirement was not dispensed with—yeas 30, nays 11—two-thirds not voting in the affirmative.

INDIANA UNIVERSITY.

Mr. SCOTT made a motion to suspend the regular order, that the bill [H. R. 37] making an appropriation of $8,000 to pay a deficiency created in 1870 and 1871 by the Indiana University at Bloomington might be taken up.

The motion was agreed to, and accordingly the bill was read the second time.

Mr. TAYLOR moved to amend by adding an appropriation of $100,000 to the Purdue University. He urged the adoption of his amendment, giving reasons therefor, among others, that this would in all probability, be the last time that the Institution will ask for State aid.

This amendment was opposed by Messrs. Dittemore, Orr, Daggy and Harney.

Mr. DAGGY made a motion that the bill and amendments be referred to the Committee on Public Expenditures.

Mr. TAYLOR asked and obtained leave to withdraw his amendment.

On motion by Mr. BROWN the motion to recommit the bill was laid on the table.

Mr. SCOTT moved to dispense with the constitutional restriction that the bill may be read the third time now and put upon its passage.

The motion was agreed to by yeas, 34; nays, 10.

Accordingly the bill [H. R. 37] making an appropriation of $8,000 to the Indiana State University at Bloomington, to pay a debt incurred in the years 1870 and 1871, was read the third and last time in the Senate.

Mr. HARNEY declared that he would have to vote against the bill, not because of unfriendliness to the University, but because he opposed the principle embodied in the bill.

Mr. FRIEDLEY of Lawrence [Mr. Dwiggins in the chair] spoke in favor of the bill—hoping it would meet with no serious opposition.

The bill was then finally passed by yeas 37; nays 5, with an amendment of title.

The PRESIDENT pro tem., announced the special order, being Mr. Chapman's drainage bill [S. 88.]

EIGHT DOLLARS A DAY FOR MEMBERS.

On motion by Mr. BROWN its consideration was postponed until two and a half o'clock, p. m., in order that the bill [H. R. 73] increasing the per diem of members $3 may be considered now.

On motion of Mr. DITTEMORE, the bill [H. R. 73] fixing the per diem of members of the General Assembly at eight dollars per day, and five dollars for every twenty-five miles travel, was read the second time.

Mr. DITTEMORE moved to dispense with the constitutional restriction, that the bill may be advanced at once to its final reading, and passed to-day.

Mr. HARNEY understood by the Treasurer that there are over sixty employes in the Senate, and there should be some restriction to this evil placed in this bill.

Mr. BROWN demanded the previous question.

The Senate seconded the demand for the previous question, and under the operation thereof, the motion to dispense with the constitutional restriction was not agreed to—yeas 28, nays 17—two-thirds not voting in the affirmative.

VOLUNTARY ASSOCIATIONS.

Mr. STEELE made a motion to suspend the order of business that the bill [S. 3] to authorize voluntary accociations to borrow money to complete unfinished buildings might be taken up.

The motion was agreed to.

Accordingly the bill [S. 3] to amend section 4 of the act of February 20, 1857, concerning the organization of voluntary associations, and repealing each act repealed by said act, was read the second time.

Mr. STEELE moved for a dispensation of the Constitutional provision that the bill may be passed to its final reading in the Senate.

The motion was agreed to by yeas 41, nays 2.

Accordingly the bill was read the third time and passed by yeas 46, nays 0.

TWENTY-THIRD COMMON PLEAS.

Mr. RHODES made a motion to suspend the regular order that the bill [S. 68] to amend the second section of the act of May 11, 1867, creating the Twenty-third Common Pleas District—affecting the counties of Tippecanoe and Warren, may be read the second time.

The motion was agreed to, and the bill being read—

He moved for a dispensation that the bill may be pressed to the final reading now.

This motion was agreed to by yeas 41, nays 2.

Accordingly the bill was read the third time and passed by yeas 45, nays 0.

Mr. BEARDSLEY, by leave, introduced a bill [S. 145] in relation to the organization of the two Houses of the General Assembly, and regulating the number of assistants to be employed by each of the officers thereof.

[The author says this bill will save $20,000 each session.]

It was read the first time and passed to the second reading.

And then came the recess till two o'clock.

AFTERNOON SESSION.

The Senate reassembled at two p. m.

CHARGES AGAINST STATE OFFICIALS.

Mr. CARNAHAN offered a resolution authorizing the Committee on Finance to make investigation into charges preferred against the present and late Treasurers and present and late Auditors of State and others with reference to the loan of the public school fund contrary to law, and report the result of the investigations to the Senate. It is as follows:

WHEREAS, It has been charged through the public press and otherwise that John I. Morrison and Nathan Kimball, late Treasurers of State, James B. Sea, present Treasurer, Thomas B. McCarty and John B. Evans, late Auditors of State, and John C. Shumaker, present Auditor, have loaned, deposited, and other-

ve used the public funds contrary to law, therefore—

Resolved, That the Committee on Finance be directed to make such investigation in relation thereto as the public interest and exigencies of the case may seem to require, and report the result of their examination to the Senate.

Mr. BROWN moved to change the reference of the resolution to the special committee heretofore appointed to inquire why the sinking fund had not been distributed according to law, and to ascertain what amount of interest had been collected on the same, and what had been done with it.

[A message was here received from the Governor, announcing the signing of Senate bills 8, 38 and 124.]

Some discussion ensued upon the question of courtesy in taking the matter from the select committee, Mr. Dittemore favoring and Mr. Carnahan opposing the reference to the select committee.

Mr. BROWN moved to further amend by striking from the resolution all reference of former Treasurers and Auditors, on the ground that they are now defendants in suits instituted against them on the relation of the State.

Mr. THOMPSON hoped this investigation would not be pressed in this way. He was satisfied the whole thing grew out of a spirit of persecution, and a desire to break down old parties and create new party divisions. It was easy to find charges railroads have made no reports, and so we find ourselves at fault as to the valuation of their property for taxation. It is a very important matter that these reports should be had by the State.

Mr. BAKER. I would like to see the bill amended so as to read $25 per day, instead of $100 for each day's delay of their report.

Mr. KIMBALL. There are many railroads that would rather pay $25 a day than give in their report.

The bill was finally passed the House of Representatives—yeas 81, nays 1.

Mr. Kimball's bill [H. R. 152] to amend the act to provide for the incorporation of railroad companies, approved May 11, 1852, was taken up on the third reading.

Mr. BRANHAM. The object of this bill is the same as that of the other act. It makes no change in the law except the date of the returns from the 10th of January to the first Tuesday in February, and fixes penalties. It is to give the State information for the basis of railroad taxation.

And then the bill was finally passed the House of Representatives—yeas 86, nays 2.

REPEAL OF THE CORPORATION DRAINAGE ACT.

On motion of Mr. BUTTERWORTH, the bill [S. 1] to repeal the corporation drainage act of 1869, and the supplemental act of 1871, was taken up and read the first time, and on his further mottion (the constitutional restriction being removed for the purpose) the bill finally passed the House—yeas 89, nays 0.

On motion of Mr. OGDEN, the title was amended by adding these words: "And saving from the operation of this act all companies the line of whose works is sixteen miles and under."

[The provisions of the foregoing bill differ from those of the House bill passed on Tuesday only in excepting from its operation companies whose lines of ditching do not exceed sixteen miles in length.]

SUPREME COURT JUDGES—DISTRICTS.

The bill [S. 51] to amend section 1 of the act to authorize a Supreme Court, and prescribe certain duties of the judges thereof, approved May 13, 1852, was taken up on the first reading.

Mr. CAUTHORN. This bill provides for an additional Judge of the Supreme Court without redistricting the State. On his motion, the constitutional restrictions were suspended, and the bill passed—yeas 85, nays 0.

The bill [S. 52] to divide the State into five Supreme Court Judicial Districts, and for the appointment of an additional Judge of the Supreme Court, was taken up on the first reading. [It provides for the appointment by the Governor of a Judge for the fifth Supreme Court District, to serve until his successor shall be elected and qualified.]

On motion of Mr. CAUTHORN (the restrictions being suspended for the purpose) the bill was advanced to final reading. Mr. Cauthorn proposed to amend in the first section by striking out "Parke" and inserting "Vigo" in lieu, and by striking out "Vigo" and inserting "Parke" in lieu.

Mr. WOODARD moved to lay the amendment on the table.

Mr. CAUTHORN. The object of this amendment is to make the districts out of counties adjoining. It don't amount to anything else and it would be satisfactory to the Judges.

Mr. Speaker EDWARDS (Mr. Offutt in the chair) joined the gentleman from Parke (Mr. Woodard) in his objection to the proposed change; to make it would be only to send the bill back to the Senate.

The amendment was laid on the table, and then the bill was finally past the House. Yeas 82, nays 4.

VALUATION AND APPRAISEMENT ACT.

Mr. CAUTHORN (by unanimous consent) introduced a bill [H. R. 226] for an act to amend the 453d section of the Practice act of June 18, 1852, and declaring an emergency. [It requires the Sheriff to return the reason of the failure of sale under the valuation and appraisement act, as a basis for a new order for appraisement.]

It was referred to the Committee on the Judiciary.

LOCAL TAXATION.

The SPEAKER announced as the Select Committee, required by Mr. Woodard's resolution, to enquire what legislation is necessary to prevent exorbitant taxation of the people by county and township authorities, viz: Messrs. Woodard, Edwards of Lawrence, Brett, King and Offutt.

TERRE HAUTE AND INDIANAPOLIS R. R.

Mr. WOOLLEN presented a petition from Mr. Matson. Prosecuting Attorney of the Sixth Judicial Circuit, bearing upon the subject matter of the memorial of the President of the Indianapolis and Terre Haute Railroad, and thereupon he submitted the following which was adopted:

WHEREAS, There is a suit pending in the Putnam Circuit Court on the relation of the State against the Terre Haute and Indianapolis Railroad Company for the purpose of having its franchise declared forfeited on the ground of certain violations of its charter; and

WHEREAS, The said railroad company has petitioned this General Assembly to cause such suit to be discontinued, and the Prosecuting Attorney for the Sixth Judicial Circuit, in which the county of Putnam is situated, has filed his petition also, remonstrating against said dismissal. Now therefore,

RESOLVED, That the Judiciary Committee be instructed to inquire into the truth of the matters alleged on said suit, and report the result of such investigation with whatever recommendation they may deem proper.

STATE PRINTER.

Mr. WOODARD submitted a preamble and resolutions, reciting that the Auditor of State alleges that large amounts of money, more than is necessary, have been paid out for public printing within the last eight years; and that there is now in the hands of the Committee on Printing a bill to abolish the office of State Printer, and therefore requiring said committee to report said bill to the House without delay for action thereon.

Mr. SHIRLEY said he introduced the bill referred to in the resolution, and had prepared a similar order for its return to the House. He rehearsed the provisions of his bill to abolish the office of State Printer, and require the Governor, Secretary, Auditor, and Treasurer of State to let the State's printing to the lowest responsible bidder. He alleged the existence of charges of fraud against the Public Printers of the State chosen by both political parties, which justified the effort to abolish the office, and the statement which he himself had made, that it was more an office of public robbery than of public printing.

When he had concluded the House adjourned.

THE

BREVIER LEGISLATIVE REPORTS.

THIRTEENTH VOLUME.

INDIANA LEGISLATURE.

IN SENATE.

THURSDAY, December 12, 1872.

The Senate met at ten o'clock, pursuant to adjournment.

After prayer by the Rev. Mr. Spratt, of the M. E. Church, in which he mentioned particularly the subject of temperance—

On motion of Mr. STEELE, the reading of the Secretary's journal was dispensed with.

TWENTY-SECOND JUDICIAL CIRCUIT.

The Senate proceeded to the consideration of the special order for this hour, being the bill [H. R. 49] creating the Twenty-second Judicial Circuit of this State to be composed of the counties Miami, Wabash and Huntington.

The bill was read the second time.

Mr. STEELE reasoned in favor of the passage of the bill, and moved that it be considered as engrossed, and that the constitutional restriction be suspended in order that it may be finally passed upon now.

Mr. DAUGHERTY moved to refer the bill to the Committee on Organization of Courts.

against any public man based upon rumors growing out of the heated debates of a political canvass.

Mr. CARNAHAN moved ineffectually to lay the amendment on the table—yeas, 26; nays, 23.

Mr. WILLIAMS protested that this action, striking out the provision for the investigation into the official conduct of the former officers and retaining it as to the present officers—was not fair treatment of the minority. He asked the Senators to lay the question to their hearts and say if they had done justly in the matter. He hoped the resolution would pass without showing the hand so plain as this vote indicates. Every investigation asked for so far had been passed almost unanimously, and now he hoped that the Senate would not rest content with this vote. If there is nothing wrong why shrink from an investigation; and why now investigate charges against two persons and let four others go?

Mr. BROWN explained that the four names he proposed to strike out were now in court having a judicial examination into the very things this resolution referred to, while the two persons, the present officials, are not in court. As a go between—not belonging to any party he did not take to himself any part of the lecture of the Senator from Knox. His object had been to relieve the gentlemen excepted by his amendment from an investigation during the pendency of the suits in which they were defendants. He thought an investigation by a Marion County Court, in which the cases were prosecuted by the ablest legal gentlemen in the State, would be sufficient in their case. Like the Indianapolis *Sentinel*, having now no politics and never expecting to have any, he repudiated the charge that it was designed to persecute or exculpate any one.

Mr. GLESSNER thought the ex-officers were entitled to the benefits of a full investigation. He believed they were hon-

orable gentlemen. The State too should have the benefit of the investigation. The suits referred to were instituted to recover money alleged to have been received on interest from deposit of the public funds. They were to ascertain a legal point merely. He favored the passage of the resolution that the parties interested may have an opportunity to vindicate their good name—a right which should be accorded to them; inasmuch as the suits may never be determined, or may be stricken off the court dockets to-morrow; and for other reasons which he named.

Mr. HOUGH offered the following substitute for the pending resolution:

WHEREAS, In the opinion of the Senate, there is a great deal of looseness in the manner in which the tightness of the strings of the public purse is kept: and

WHEREAS An increase in the tightness of the looseness aforesaid, is a thing greatly to be desired: therefore

RESOLVED, That a committee of some unascertainable number be appointed to investigate the looseness of the tightness aforesaid, and report by bill or otherwise.

On motion of Mr. ARMSTRONG the whole subject was laid on the table.

Mr. GLESSNER moved to reconsider the vote of several days since adopting the resolution offered by Mr. Dittemore, to investigate why the $560,000 school fund was not distributed under the law requiring it.

Mr. DITTEMORE opposed the motion.

Mr. HOUGH moved to lay the motion to reconsider on the table.

This motion was agreed to by yeas 34, nays, 9.

Mr. DWIGGINS, by consent, substituted the bill [S. 49] to amend section 22 of the town incorporation act of June 11, 1852, instead of the bill [S. 56] reported from the Committee on Corporations, submitted several days since.

It being a favorable recommendation, the report was concurred in.

On motion by Mr. BROWN, the bill [S. 17] was taken from the table and placed on the files.

Mr. GOODING offered a resolution for the appointment of a special committee of three to investigate the needs of the office of Secretary of State.

It was adopted.

RAILROAD FREIGHT CHARGES.

Mr. HUBBARD (in the chair) announced the consideration of the bill [S. 115] to prevent extortionate charges for freight transported over railroads in this State.

It was read the second time.

Mr. SCOTT moved to amend by adding the words to section 2, "nor when compensation allowed by law shall be less than the amount so offered" for carrying freight—shall not be liable to a penalty.

Mr. BROWN explained that as the law now is, a party can not bring suit against a railroad for extortion, because the company will plead a contract. He opposed the amendment, and concluded his remarks by moving to lay the amendment on the table.

The motion was agreed to, and after some debate the bill finally passed—yeas 38, nays 4, as follows:

YEAS—Messrs. Armstrong, Beardsley, Bird, Boone, Bowman, Brown, Bunyan, Carnahan, Cave, Chapman, Daggy, Dittemore, Dwiggins, Glessner, Gooding, Gregg, Hall, Harney, Haworth, Hough, Hubbard, Miller, Neff, Oliver, Orr, Rhodes, Ringo, Rosebrough, Sarnighausen, Slater, Sleeth, Smith, Stroud, Taylor, Thompson, Wadge, Williams and Mr. President—38.

NAYS—Messrs. Collett, Francisco, Howard and Scott—4.

Mr. WADGE explained his affirmative vote because this bill is a move in the direction of protecting the people against the extortion of railroad companies, though he very much disliked the provisions in sections 6 and 7.

The result of the vote was then announced as above.

CITY TAXATION.

Mr. SARNIGHAUSEN moved to suspend the regular order to take up the bill [S. 10] to amend section 58 of the general city incorporation law of March 14, 1857. If passed it would save a very important law suit in his county, and was a measure very much desired by the citizens of his county. The bill authorizes the taxation of all lands inside the city limits.

The motion was agreed to.

The bill was read the second time, the constitutional rule suspended, and the bill read the third time and passed—yeas 31, nays, 8.

Mr. DAGGY offered a resolution providing that in future the business of the Senate shall be conducted in the regular order as provided by the rules.

It was adopted.

DRAINAGE OF WET LANDS.

Mr. CHAPMAN moved to take up bill 88, which had been made the special order for 2:30 p. m.

Mr. HUBBARD, from the Committee on Engrossed Bills, reported back bill 88, (the special order) to encourage the construction of levees, dykes and drains.

Mr. BOONE asked and obtained unanimous consent offerto an amendment pro-

viding that no suit for the recovery of assessments shall be commenced after a lapse of five years from the time of recording the schedule.

The amendment was agreed to.

The bill was read the third time and passed—yeas, 36; nays, 5.

The Senate then adjourned.

THE

BREVIER LEGISLATIVE REPORTS

THIRTEENTH VOLUME.

INDIANA LEGISLATURE.

HOUSE OF REPRESENTATIVES.

THURSDAY, December 12, 1872.

The House was called to order at nine o'clock by the Speaker, and prayer was offered by Mr. Clark, a representative from Hamilton county.

On motion of Mr. Lenfesty, the reading of the journal of yesterday was dispensed with.

THE ASSESSMENT LAWS.

Mr. KIMBALL, from the Committee on Ways and Means, reported back the bill [H. R. 163] to provide for a uniform assessment of property and for the collection and return of taxes thereon, with amendments. First, add to section 62 : "Provided that shares of the State Bank and of the National Banks shall not be listed for taxation for municipal purposes till the expiration of the charter of the State, October 1, 1876." Second, insert in section 49; "The number of mules, jacks and jennies, and their value."

Mr. KIMBALL [replying to Mr. Gfven] said the Committee found that it was necessary to exempt National Bank stock from municipal taxation in order to protect vested rights and avoid litigation. Such taxation would be in conflict with section 15 of the State Bank charter. And section 71 of that charter provides that no change shall be made therein without the consent of the President and Directors. It would conflict with the act of Congress authorizing National Banks.

Mr. GIVAN. I understand that the act of Congress establishing National Banks has been so amended that its stocks may be taxed for municipal and county purposes.

Mr. SATTERWHITE. That amendment was not to admit of their taxation for municipal purposes, but for county purposes. The courts in the Eleventh, Sixteenth and Seventeenth Indiana Reports have settled this matter. The law of Congress creating the National Banks provides that they shall not be taxed in excess of the stocks of the State Banks wherein they are located.

Mr. SHIRLEY could not see the necessity for continuing the exemption of the National Banks till 1876. Having hardly seen a note of the circulation of the State Bank for six or eight years, it is time we should be relieved from the law that exempts National Banks on account of a provision of the charter of the State Bank. The State Bank Charter is utterly a dead letter on the statute book, and ought to be wiped out, so as not to affect the National Bank system. What is the use of a State Bank to-day? We ought to take some steps to tax the National Banks for municipal purposes. I am in favor of removing this pretence. I believe it to be merely technical—not well founded. Governor Baker has twice recommended the taxation of National Banks. These banks are each year exempted from taxation on their stocks to the extent of hundreds of thousands, and if you tax them it will be just the saving of the tax on that sum to the people, and I am in favor of enforcing this tax now.

Mr. BAXTER stated that there are seventy of these banks in operation in the State, and reading from the National Bank's charter the clause for their exemption, he said those who have gone into these National Banks have gone into them with that understanding.

Mr. CAUTHORN. The subject of the taxation of National Bank stocks has been discussed in this House before, in other sessions, and it is a dangerous question to make a record on. Bills proposing to tax this stock have been strangled in committee, and some Democrats had made a record on this question, and met the consequences of the popular condemnation. This was a tender question. Those opposed to this taxation affect to believe that it is not constitutional to tax them for municipal purposes. But if there is really any doubt about this, what are we afraid of? This legislation is for the benefit of the people, and I prefer to tax them, and let them take the question to the courts. But I am not convinced that it is unconstitutional. Governor Baker in his messages of 1869 and 1871, says we can tax them, and that they ought to be taxed for municipal purposes. The men that own these stocks are men of wealth. You make laws to compel men to pay taxes on all they have. Then why will you exempt these men, these sharpers, who are making their thousands by loaning money? We propose not to tax them more than, but only to pay taxes as other men.

Mr. KIMBALL. There is not a man on the committee but wants to tax these banks, if we can; but we regard the attempt as against the constitution and the decisions of the Supreme Court.

Mr. CAUTHORN continuing. I do not know that the question has ever been before the Supreme Court. The Supreme Court of the United States has decided that we can tax these National Banks. All these National Banks are located in the cities and towns, and according to the last semi-annual statement before me, the total of their capital amounts to about sixty-eight millions of dollars. How much would that realize in taxes? these millions—gentlemen, can make the calculation for themselves. Then it will be found that these National Banks stocks are owned nearly all by New Yorkers and foreigners, and through these banks they are enjoying the protection and benefits of our own laws and institutions without paying anything for it. It is nothing but fair that they should be taxed as others. But, as I hinted, this proposition in the Legislature to tax them has been brought to grief, and the men here who aided in that result have been rebuked by the people. And where there is doubt, I prefer to give the benefit to the people.

Mr. SHIRLEY was surprised at the inconsistency of the course of gentlemen (Mr. Satterwhite and Mr. Kimball) voting to increase the per diem and to exempt the banks from taxation. The gentleman from Morgan (Mr. Satterwhite) in my own county promised my people that he would vote for a bill to tax National Banks; and now he is hiding himself behind a quibble. I prefer to take the opinion of Governor Baker, who is a good lawyer. I concur also with the gentleman from Knox (Mr. Cauthorn) when he says he would give the people the benefit of the doubt. I desire to treat the Committee on Banks and the Committee on Ways and Means with all proper respect whilst I say let us do what Governor Baker has told us to do, and if there is any legal doubt involved in our act let that be decided by the proper tribunals. I say to gentlemen that there is injustice in our negligence in this matter. As to the question of justice in the matter no man can doubt. We know that it is just and proper and right that these banks should pay their equal share of the taxes. I don't want to constitute our committees as judges of the law. Let the House come forward and do what the Governor has repeatedly recommended.

Mr. SATTERWHITE. The gentleman intimates that I am going back on my promise to my people. This is not the case however. As to my action here I am only anxious to avoid vexatious law suits and expensive future legislation, and there is a rule of the House in my favor—the gentleman has no right here to call in question my motives. But, as I have said, it is futile in the extreme to attempt here to tax these banks for municipal purposes. The question has been settled in three cases. The gentleman intimated that there is no mother bank of the State of Indiana; but he is entirely mistaken in this also. There is one in this city with a capital of $300,000, besides others.

Mr. BUTTERWORTH. What connection is there between the State and the National Banks?

Mr. SATTERWHITE. There is an act of Congress which provides that the tax on the National Banks shall not be greater than the tax on the State banks, in the States where they are located. I would legislate so as to avoid litigation.

In face of the decisions of the Supreme Court, given in three separate cases, it is

folly to attempt to tax these stocks for municipal purposes now. The National Banks are now paying taxes equal to 3½ per cent., while other property does not average more than 1½.

Mr. BAXTER had voted against the per diem bill because he believed it unjust to his constituents. He believed in taxing banks but wanted to wait till it could be done legally. He had not seen any one attempting to lobby on behalf of the banks. These banks, instead of bleeding the people as alleged by the gentleman from Knox, had been a blessing to the country. He read from the law chartering the State Bank, to show it was exempt from municipal taxes, and from the law creating National Banks, to show that they should be taxed only as other banks, and contended that there could be no question as to the illegality of the proposed tax.

Mr. BRANHAM said the committee had been unanimous in their report, but in order to put the responsibility where it properly belonged he moved to strike from the amendment that part relating to the National Banks and shares of stock in the National Banks, and let the courts decide when appealed to.

Mr. GIVAN said he did not favor the taxation of National Banks because they were wealthy, but simply because he favored equal taxation, and wanted all who shared the protection of the government to bear equal share in the burden of its support.

The motion to strike from the amendment that part relating to National Banks was agreed to.

Mr. WOOLLEN. There can be no question that he State Banks are exempted, and there is no use of a clause to exempt them. We might as well reject the whole of the amendment in relation to banks. I make that motion.

Mr. BRANHAM. If there is no mistake about the time when the State Bank Charter expires.

Mr. WOOLLEN. The real estate of the State banks is taxable as other property: hence, if it is left to the officers, they will put such of this property on the tax lists as are taxable; and the National Banks are taxable in the same way. So I think the amendment can be of no use.

Mr. CAUTHORN. I agree with the gentleman from Johnson, that the amendment is of no use. But I propose to tax these banks according to the recommendation of Governor Baker. Mr. C. then read from the Governor's Messages, of 1869, and 1871, recommending the taxation of National Banks as other property for municipal purpose, and his reasoning thereon—and proceeded. The Governor tells us very plainly that we can tax these National Banks for municipal purposes. I think the Governor is right and I propose to follow his advice. I don't think these banks themselves are very clear in their reasoning on this question of the unconstitutionality of such legislation. For if they are firmly and well persuaded of the correctness of their position, why are they so tender about it if we can't tax them? Why are they expending their thousands of dollars in attempting to prevent such legislation, if they really think we can't so legislate? I propose, therefore, to take the responsibility and make this legislation; and let them go to the courts with the question.

Mr. KIMBALL. I am determined that gentlemen shall not place us on the record as opposed to taxing the National Banks or any other banks; and as to the alleged attempts of the banks to prevent such legislation by money, I will affirm here, that there is not one member of the Committee on Ways and Means that any man will dare to approach corruptly. I am in favor of taxing them, and with respect to the amendment the House will take its own course. I am glad to see that the gentleman from Knox (Mr. Cauthorn) attaches so much importance to the messages of Governor Baker.

Mr. WOOLLEN'S motion to further amend the amendment of the committee by striking out the clause respecting the State Banks was adopted.

The question recurred on the adoption of the committee amendments, as amended and they were adopted.

And so the report of the Committee on Ways and Means was concurred in.

Mr. SATTERWHITE submitted further amendments to the bill, viz.:

"Add to Section 57 the following paragraph:

"It shall be the duty of the President or other principal officer of every private bank in the State, to make out, in addition to the other property required to be listed by this act, a statement under oath, showing the amount of capital of such bank, and the name and residence of the owner or owners thereof, and the proportionate part or share of such capital owned by each, and the par or cash value thereof, which shares shall be assessed against such persons the same as other personal property, and without allowing deductions therefrom, and the same shall be entered up for taxation accordingly."

Also, the following:

"The affidavit to the schedule in Section 49 shall be amended as follows: The words, 'excepting property not taxable or otherwise specifically taxed,' shall follow the words, 'All personal property held or belonging to me.'"

Mr. WOOLLEN. It seems to me that the act provides for that.

Mr. SATTERWHITE. The section providing for the taxation of their banking property does not provide for taxing all their other property besides.

Mr. WOOLLEN. It seems to me that there is no mercy for the private banks as they are organized now. In this bill it is provided that every man shall give in all he has.

Mr. SATTERWHITE. I am fixing that so as to meet the future.

Mr. S.'s amendments were rejected, and the question recurred on the engrossment of the bill.

On motion of Mr. BRANHAM, the bill was considered as engrossed and put upon its passage.

The bill, as amended, was read the third time by the Clerk.

Mr. BAKER demanded a call of the House, which was ordered, and 82 members answered to their names.

On motion of Mr. CAUTHORN, further proceedings under the call were dispensed with.

The final vote resulted—yeas 85, nays 2, as follows:

Yeas—Messrs. Anderson, Baker, Billingsley, Bloch [illegible], Bowser, Branham, Brett, Broadus, Butterworth, Bass, Cauthorn, Clark, Claypool, Cobb, Coffman, Cole, Cowgill, Crumpacker, Dial, Durham, Edwards of Lawrence, Ellsworth, Eward, Furnas, Gifford, Gras, Glasgow, Glazebrook, Goble, Goudie, Gronendyke, Hardesty, Hatch, Hedrick, Henderson, Hollingsworth, Ironhower, Johnson, Jones, Kimball, Kirkpatrick, Lenfesty, Martin, McConnell, McKinney, Mellett, Miller, North, Odle, Offutt, Ogden, Peed, Pfrimmer, Prentiss, Reeves, Reno, Richardson, Rigg, Rudder, Rumsey, Satterwhite, Schmuck, Scott, Shirley, Shutt, Smith, Stanley, Strange, Teeter, Tingley, Thompson of Elkhart, Thompson of Spencer, Troutman, Walker, Wesner, Whitworth, Willard, Wilson of Blackford, Wilson of Ripley, Wood, Woodard, Wolfin, Woollen, Wynn and Mr. Speaker —85.

Nays—Messrs. Baxter and Cline—2.

So the bill passed the House of Representatives.

NEW BUSINESS.

Mr. GIFFORD introduced a bill 227, to provide for the payment to Township Trustees of certain moneys.

It was referred to the Judiciary Committee.

Mr. WALKER introduced a resolution reciting the neglect of the special committee on heating and ventilation of the hall to attend to their duty, and providing for raising a second committee to warm up the committee.

Mr. OFFUTT moved that the matter be referred to a committee of one, and that the member from Wayne be made chairman of that committee.

It was agreed to.

Mr. KIRKPATRICK introduced a bill 228, to amend the act in relation to disabilities of Circuit Judges

It was referred to the Judiciary Committee.

Mr. CAUTHORN offered a resolution directing the Speaker to draw his warrant upon the Treasurer in favor of W. M. Merwin and ——— for the amount allowed them by resolution of the House.

It was adopted.

THE OFFICE OF STATE PRINTER.

Mr. STANLEY called attention to the fact that the resolution of Mr. Woodard, offered Wednesday afternoon, at the adjournment had not been acted on.

The resolution was taken up, when Mr. BILLINGSLEY, Chairman of the Committee on Printing, explained that the delay in reporting back the bill to abolish the office of State Printer had arisen from the fact that the committee were debating the means to be adopted for providing for the public printing.

Mr. BRANHAM moved that the committee be excused from attendance on the sessions of the House, in order that they might have an opportunity to attend to the business before them.

Mr. SHIRLEY moved to amend by requiring them to report back both bills in their hands to-morrow morning.

The motion was agreed to, and then Mr. Branham's motion, as amended, was adopted.

SAVINGS BANKS.

Mr. RIGG'S bill [H. R. 198] to amend the act of May 12, 1869, providing for the incorporation of savings banks, was read the third time; and, on motion of Mr. SATTERWHITE (by unanimous consent), it was referred back to the Committee on Banks, with instructions to amend.

Mr. RUMSEY'S bill [H. R. 90], touching public schools in towns on grounds laid out, platted, and regarded as public grounds not dedicated, and matters therewith connected, was taken up in order on the third reading. Mr. R. said: The object is to devote undedicated public grounds in the towns of the State to the schools, in accordance with the wishes of the people of the towns. In his town there was such a public square given to the town twenty years ago, which has been used as a lumber yard, until recently the people have taken possession of it, built a school house on it, and are now using it for school purposes. He hoped the bill would pass. It would legalize their action.

The bill finally passed the House of Representatives—yeas, 80; nays, 0.

HOLIDAYS.

Mr. BUSKIRK'S bill [H. R. 64] making holidays of January 1, July 4, December

25, Thanksgiving nays, and general election days, was read the third time.

Mr. BUSKIRK. It is to make legal holidays of the days specified; and it provides that commercial and bank papers maturing on any of these days shall mature, in the eye of the law, on the day previous.

Mr. COBB. It seems to me it would be better to leave the laws without change in this respect; because, for example, if the law here is different from the law in Massachusetts, there will be difficulty when the protest is not made on the legal day. Why encumber the statute with it? It can not change the common law. It would be injurious only to the people of this State. It would not affect outsiders.

Mr. MILLER. I think we need this legislation to establish the legal holidays —as it has been taken in most of the States of the Union. There are other days besides Sundays in which people do not engage in the ordinary avocations of life; and commercial men ought to be able to devote their whole time to the holidays as well as other people. I do not think, so far as paper drawn in Indiana and payable in another State is concerned, that there can be any difficulty, because the law of the place where the contract is made binds in the case. It can not be a dangerous innovation.

The bill finally passed the House of Representatives—yeas 55, nays 22.

WIFE WITNESSES.

Mr. Johnson's bill [H. R. 112] to render wives competent witnesses in actions brought for damages done to them in person or character, was read the third time and passed—yeas 87, nays 0.

JUSTICES OF THE PEACE.

Mr. STRANGE introduced a bill [H. R. 229] to provide for furnishing statutes to Justices of the Peace.

Leave was granted the Judiciary Committee and the Committee on Public Expenditures to sit during the sessions of the House.

On motion of Mr. JOHNSON, his bill [H. R. 124] in relation to the soldiers' monument, was referred back to the special committee on that subject.

On motion of Mr. BUTTERWORTH, the House adjonrned till to-morrow morning at nine o'clock.

THE

BREVIER LEGISLATIVE REPORTS.

THIRTEENTH VOLUME.

INDIANA LEGISLATURE.

IN SENATE.

FRIDAY, December 13, 1872.

The Senate met at ten o'clock, a. m.

The Secretary's minutes of yesterday's proceedings were being read when—

On motion by Mr. THOMPSON the further reading thereof was dispensed with.

PETITIONS AND MEMORIALS.

The following papers were presented and referred to the appropriate committees:

By Mr. ARMSTRONG: From the Mayor and Council of Kokomo, the Superintendent of Public Instruction, and other residents of the town, praying that an erroneous assessment for school purposes made by the school trustee may be legalized.

By Mr. NEFF: From over one thousand citizens of Randolph county, two petitions praying for the repeal of gravel and plank road laws, and the railroad assessment laws.

By Mr. BUNYAN: Two petitions, praying for a repeal of the township and county railroad aid act.

By Mr. TAYLOR: From tax payers, praying for the enactment of a law authorizing county boards to make appropriations to aid in keeping in repair the Wabash and Erie Canal through counties along the line thereof.

By Mr. HOUGH: On the subject of railroads, from citizens of Henry county, praying modification of county and township railroad act.

By Mr. DAGGY: A petition, which was referred, without reading, praying the enactment of a law to prevent reckless hunting.

By Mr. COLLETT: With regard to reckless hunting and shooting.

REPORTS FROM COMMITTEES.

Mr. BROWN, from the Judiciary Committee, returned the bill [S. 23] to authorize counties to appropriate money to keep in repair any canal running through said county, with a report recommending amendments.

He also returned from the same committee the bill [S. 103] to amend the Common School law, with a favorable recommendation.

He also returned from the same committee the bill [S. 98] to prevent carrying concealed weapons, with amendments.

He also returned the bill [S. 93] limiting the number of grand and petit jurors, recommending that it be indefinately postponed.

He also returned the bill [S. 42] to amend the act concerning promissory notes.

Also the bill [S. 67] amending the 29th section of the Justices' Act, recommending its indefinite postponement.

These reports were severally concurred in.

Also the bill [S. 102] for the repeal of the valuation and appraisement laws of property taken on execution, recommending that it lie on the table.

Mr. HUBBARD resisted concurrence in this report, citing reasons why some such bill as the one proposed should become the law of the land.

The report was concurred in.

Mr. BROWN, from the Judiciary Committee, returned the bill [S. 92] to amend section 16 of the real property act, recommending that it be indefinitely postponed.

Also the bill [S. 57] to repeal the act to prevent the breaking of a quorum of the General Assembly, recommending indefinite postponement.

Also, the bill [S. 60] to regulate interest on judgments, with a similar report—the House having passed a bill in almost the same language.

These reports were severally concurred in.

Also, the bill [S. 90] to amend section 24 of the descent and apportionment of estate act, with a report that it lie on the table.

The report was concurred in.

He also returned the bill [S. 18] to repeal the plank and gravel road acts of 1867 and 1859, recommending indefinite postponement.

Mr. GREGG advised careful consideration before voting upon this report.

On motion of Mr. BROWN, the report was laid on the table till Senator Steele shall appear in his seat.

DECEDENTS' ESTATES.

Mr. BROWN, from the Judiciary Committee, returned the bill [S. 46] to repeal section 41 of the will act, with a recommendation that it lie on the table.

Mr. NEFF would like an expression of the Senate on the merits of the bill. The law proposed to be repealed is pernicious in the settlement of estates, as it allows more than one contest. A single contest is all that should be allowed. Estates are sometimes almost frittered away in repeated contests over will. He believed this provision and others to prolong the settlement of estates, make a crying evil of the day.

Mr. BROWN hoped the Senate would not be seduced by the cries of reform made by the Senator from Randolph [Mr. Neff]. He argued against the passage of a bill such as is proposed to be laid on the table by the Judiciary Committee. The provision proposed to be repeated has nothing to do with the prolongation of the settlement of estates.

The report of the committee was then concurred in by consent.

MARRIED WOMEN.

Mr. BROWN on behalf of the Judiciary Committee, returned the resolution of inquiry as to the expediency of creating a law granting to married women the same rights in regard to holding property that are enjoyed by single women, with a recommendation that it lie on the table.

The report was concurred in.

Mr. BROWN, from the same committee, returned the bill [S. 91] concerning married women's contracts, to make her really liable.

This report was laid on the table.

BANKS.

Mr. DWIGGINS, from the Committee on Banks, returned the bill [S. 6] on taxation of bank stock, with a substitute recommended by the majority of the committee.

Mr. GREGG, from the minority of said committee, submitted the following report:

MR. PRESIDENT: The Committee on Bank and Banking on the part of the minority of said Committee beg leave to report that we have had under consideration Senate bill No. 4, entitled "A Bill to provide for the assessment and collection of taxes for municipal purpose on the shares of stock owners in banks and banking associations doing business in this State," and concur in this report:

That Senate Bill, No. 4, is an exact copy of House Bill No. 6, introduced into the House of Representatives of the 47th General Assembly of the State of Indiana, and referred by that body to the Committee on the Judiciary and by that Committee reported back with the unanimous recommendation that it pass. Afterwards, to wit, on the 9th day of February, 1871, said bill passed the House of Representatives, with the endorsement of 85 yeas to 8 nays. The bill was received in the Senate on the 10th day of February, 1871, and failed to pass that body by reason of the abrupt termination of the Legislature.

The bill reported herewith is ample in all its provisions to carry out the object and purposes expressed in the title, the object of the bill is to tax the shares of National Banks for municipal purposes, at the City or Town where the bank is located, at the same rate that other personal property is taxed.

The bill reported by the majority of the Committee provides that shares in National Banks shall be taxed where the owners thereof reside respectively, and not at the City or Town where the bank is located, unless the owner of the stock resides in such City or Town, non-residents excepted.

At the time of the enactment of the General Tax laws of this State, State Banks were not subject to taxation for municipal purposes. It was provided however that the stock of merchants and manufacturers should be taxed where located.

Municipal taxation rests upon the theory that the property that is situate in the City and protected by its government, should bear its proper share of the burthen of supporting such government. If the shares of banks are to be taxed where the owner resides in the country—they would have nothing to pay for municipal purposes, though the bank was located in the City. Thus property had not had the protection of City government.

Congress has long since given the powers to tax the shares of capital Stock of National Banks.

The cities and towns of this State have long suffered for the want of necessary legislation upon this subject. It is, therefore, recommended that the bill herewith reported be passed.

RICHARD GREGG,
HUGH DAUGHERTY.

Mr. DWIGGINS moved to lay the reports on the table for the present.

The motion was agreed to.

Mr. GREGG moved that these reports be made the special order for Wednesday next, at two o'clock.

The PRESIDENT decided this motion out of order.

Mr. OLIVER, from the Committee on Public Buildings, returned the bill [S. 87] granting the consent of the State to the sale of certain lots in Evansville to the United States, upon which to erect public buildings, with a favorable report thereon.

These reports were concurred in.

CLAIMS.

Mr. NEFF, from the Committee on Claims, reported on the claims for services in the case of John W. Burson at the last session; also claims for rent of committee rooms; also claim for coal; also a claim for the Volksblatt furnished last session; also claim of $500 for Osborn & Calkins, as attorneys, by appointment of the Governor, on the Calumet dam nuisance.

He also returned a report in favor of $129 for John Sarninghausen for expenses incurred in a contest for a seat in the Senate last session.

Also a claim in favor of R. J. Bright & Co., for *Sentinels* last session for $600 and over, and in favor of the *Journal* Company for their paper and roll calls and cards, $55.

Also a claim for a witness in the Burson contest case last session.

These reports were severally discussed, and the claims were referred to the Committee on Finance for incorporation in the Specific Appropriation bill.

RAILROADS.

Mr. ORR, from the Committee on County and Township Business, returned the petitions praying for the repeal of the Township and County Railroad Act, with a bill [S. —] to repeal the act of May 12, 1869, to authorize aid to the construction of railroads by counties and townships granting aid thereto.

The report was concurred in.

Mr. SLEETH, from the Committee on Railroads, returned the bill [S. 59] to authorize the postponment of certain taxes levied for aid in construction of railroads, with a substitute therefor. The substitute was read through by sections.

The report was concurred in by consent.

NEW PROPOSITIONS.

Bills for acts were introduced, read the first time, and severally passed the second reading, unless otherwise stated:

Mr. DWIGGINS introduced a bill [S. 146] for an act to fix the number of Senators and Representatives in the present Assembly of the State of Indiana.

Mr. BROWN introduced a bill [S. 147] for an act to except certain property from sale on execution—all family pictures, school books and Bible, yoke of oxen or span of horses and farming implements, not exceeding $300 in value, and the professional library of lawyers, ministers and doctors, or the tools of a mechanic or laborer, to the value of $500.

Mr. DITTEMORE introduced a bill [S. 148] for an act to provide for the relocation of county seats and repealing all laws in conflict with the act and declaring an emergency.

Mr. WADGE introduced a bill [S. 149] for an act providing for the reorganization of the State prisons, and repealing all conflicting laws. [It provides for the appointment of a State Board of Prison Directors to hold office for four years.]

Mr. ARMSTRONG introduced a bill [S 150] for an act to legalize taxes heretofore levied for the purpose of tuition by any school trustees of any incorporated city in this State, and providing for the collection thereof.

Mr. OLIVER introduced a bill [S. 151] for an act to amend section 1 of the act for the incorporation of manufacturing and mining companies, approved May 20, 1852, so as to provide for the creation of companies to control union stock yards and elevators, transit companies, etc.

And then came a recess till two o'clock.

AFTERNOON SESSION.

The Senate met at two o'clock, and pursued the order pending at the time of taking the recess for dinner.

Mr. ORR introduced a bill [S. 152] for an act to amend section 26 of the act regulating descents and the appointment of estates.

Mr. SCOTT introduced a bill, [S. 153] for an act to amend an act of December 20, 1865, to create the State Normal School.

Mr. HALL introduced a bill [S. 154] for an act to amend section 7 of the divorce act, approved May 13, 1852.

Mr. BOWMAN introduced a bill [S. 155] to provide for the repayment to certain counties therein named, certain monies paid into the State Treasury in the year 1869.

Mr. HUBBARD introduced a bill [S. 156] for an act to authorize cities constructing water works to issue bonds to aid therein.

Mr. RHODES introduced a bill [S. 157] for an act authorizing the purchase of stationery for the use of county officers or courts.

Mr. DWIGGINS moved to reconsider the resolution offered by which the Senate

agreed to proceed with the business in the regular order, as prescribed by the rules of the Senate.

Mr. WILLIAMS moved to lay the motion on the table.

This latter motion was rejected by yeas 17, nays 25.

The motion to reconsider was agreed to.

On motion by Mr. DWIGGINS the resolution was laid on the table.

On motion by Mr. MILLER the order of business was dispensed with, and bill [H. R. 49] creating the Twenty-second Judicial Circuit—Miami, Wabash and Huntington—was taken up and read the third time, and passed by yeas 35, nays 6.

Messrs. Bird, Dittemore, Dwiggins, Friedley of Scott, and Hough, explaining their votes.

On motion by Mr. GOODING, the order of business was suspended, and the bill [S. 135] defining what counties shall constitue the Thirtieth Judicial Circuit—the county of Vanderburg—was read the second time.

Mr. GOODING moved for the suspension of the constitutional rule that the bill may be passed to the final vote now.

Mr. CARNAHAN opposed the motion and the passage of the bill, being confident that the people there do not ask it.

Mr. GOODING claimed that in the entire Union there is not another city of the size of Evansville but what has a judge exercising civil jurisdiction; and he was sure the bill was asking nothing but what is just and proper.

The motion to dispense with the constitutional restrictions was rejected. Yeas, 29; nays, 11—two-thirds not voting in the affirmative.

Mr. CARNAHAN moved to refer the bill to a special committee of three, with instructions to add Posey to Vanderburg.

Mr. GOODING moved to amend, by changing the reference to the Committee on the Judiciary.

Mr. CARNAHAN consented that it shall go to the Judiciary Committee.

On motion by Mr. BROWN, it was so referred, with instructions to inquire into the expediency of the passage of the bill.

On motion by Mr. DWIGGINS, the rules were still further suspended, and the bill [H. R. 32] to provide times for holding Common Pleas Courts in the Fifteenth Judicial District—Porter, Lake, Newton, Jasper and Starke—was read the second time.

On his further motion, the constitutional restriction was dispensed with by yeas 35, nays 14, the bill was read the third time, and passed by yeas 37, nays 0, with an amendment of title.

On motion by Mr. BROWN, the rules were still further suspended and the bill [S. 145] in relation to the number of employes in the House, was read by title and referred to the Committee on Expenditures.

On motion of Mr. BOWMAN [Mr. Dwiggins in the Chair], under a suspension of the rules, the bill [S. 118] to fix court terms in the Second Judicial Circuit, was read the second time. It affects Scott, Jackson, Lawrence, Washington, Harrison, Clark, Orange and Floyd counties.

It was referred to a special committee, consisting of Messrs. Bowman, Friedley of Lawrence and Brown.

On motion by Mr. HARNEY, the bill [S. 122] to legalize, in certain cases, appropriations made by County Boards in aid of railroads, was read by title and referred to the Committee on Corporations.

On motion by Mr. CAVE, the bill [S. 24] under a suspension of the order of business, was taken up. It proposes to amend section 30 of the Supervisor of Highways act of December 20, 1865.

It was read the second time, with clerical amendments proposed by the Committee on County and Township Business, which were concurred in, and the bill was ordered engrossed.

THE ASSEMBLY.

On motion by Mr. WILLIAMS, the order was suspended, and the bill [H. R. 119] in relation to the organization of the two Houses of the General Assembly, was read the second time.

On motion by Mr. WILLIAMS, the constitutional restriction was dispensed with by yeas 34, nays 1, and the bill was read the third time.

The vote on the passage of the bill discovering no quorum present—

On motion a call of the Senate was ordered, and being taken, thirty-two Senators answered to their names. Several other Senators appearing—

Further proceedings under the call were dispensed with.

The bill was then finally passed by yeas 38, nays 0, with an amendment of title.

Mr. TAYLOR, by leave, submitted a report from the Committee on Expenditures, returning the bill [S. 145] prescribing the number of employes of the two Houses of the General Assembly, with amendments.

The report was concurred in.

The bill was read the second time and ordered engrossed.

On motion by Mr. HALL, the bill [S. 170] to establish a sanitorium, was read by title and referred to the Committee on Rights and Privileges.

Mr. BROWN moved for a dispensation of the constitutional restriction that the Senate Bill 145, relating to the employes of the General Assembly, be pressed to the final passage.

The motion was agreed to by yeas 39, nays 0.

Accordingly the bill [S. 145] in relating to the organization of the two Houses of the General Assembly, the officers thereof and the number of employes allowed each, was read the third time and passed by yeas 40, nays 0.

COUNTY SEATS.

On motion by Mr. BEESON, at the suggestion of Mr. Dittemore, the bill [S. 148] to provide for the relocation of county seats, was read by title under a dispensation of the constitutional restriction.

On motion by Mr. BEESON, it was referred to the Committee on the Judiciary.

TIPPECANOE BATTLE GROUND.

On motion by Mr. TAYLOR, the bill [S. 6] to provide for the permanent enclosure around the Tippecanoe battle ground, was read the second time, with committee amendments, which were agreed to, appropriating $25,000, etc.

Mr. BROWN moved that the constitutional restriction be dispensed with, and the bill pressed to third reading. He would vote with very great pleasure for this bill, which proposes to enclose that historic ground.

Mr. HOUGH believed $25,000 too large an appropriation, and believed a substantial enclosure could be built for one-twenty-fifth part of the sum named in the bill—he suggested a hedge fence.

Mr. BROWN desired a fence placed around that place having a permanent, and sightly, and at the same time, ornamental appearance.

Mr. TAYLOR spoke in favor of the appropriation.

Mr. SLEETH was willing to vote the estimated cost—viz: $24,100—and he moved to so amend the bill—Mr Brown withdrawing his motion to allow this one.

Mr. ORR favored the motion—though it appropriated a large amount.

Mr. NEFF saw no comparison between the beauty of a hedge or iron fence, and without taking into consideration the cost, the former was his decided choice.

Mr. FRIEDLEY of Lawrence (Mr. Dwiggins in the chair) desired the iron fence.

The amendment was adopted.

On motion the bill was made the special order for to-morrow at half-past ten o'clock.

CONGRESSIONAL APPORTIONMENT.

Mr. GOODING, from the Select Committee thereon returned the bill [S. 54] apportioning the State for Congressional purposes, with amendments.

The report was concurred in.

On motion, by Mr. GOODING, the rules were suspended and the bill read the second time.

The PRESIDENT announced Messrs. Gooding, Sleeth, and Armstrong as a committee authorized by a resolution of yesterday to inquire into the desired needs of the office of Secretary of State.

And then the Senate adjourned until to morrow morning.

THE

BREVIER LEGISLATIVE REPORTS

THIRTEENTH VOLUME.

INDIANA LEGISLATURE.

HOUSE OF REPRESENTATIVES.

FRIDAY, December 13, 1872.

The SPEAKER called the House to order at nine o'clock, a. m.

On motion of Mr. TROUTMAN, the reading of the journal of yesterday was dispensed with.

REPORTS FROM COMMITTEES.

Mr. WALKER, from the Judiciary Committee, returned Mr. Wilson of Ripley's bill [H. R. 178] to amend section 77 of the criminal practice act (relative to the compensation of specially appointed judges), recommending its passage. It was ordered to be engrossed. He also returned Mr. Ellsworth's bill [H. R 13] to amend section 1 of the act prescribing the duties and fixing the compensation of Agent of State, recommending indefinite postponement.

The report was concurred in.

Mr. OGDEN, from the Committee on the Judiciary, returned Mr. Shirley's bill [H. R. 188] to amend section 433 of the practice act of June, 1852, recommending passage to engrossment.

The report was concurred in.

Mr. SHIRLEY, from the Committee on the Judiciary, returned Mr. Wesner's bill [H. R. 216] defining certain misdemeanors by prosecuting attorneys, etc., with the expression of opinion that the subject matter of the bill is already embodied in the statute.

The report was concurred in.

Mr. SHIRLEY also returned Mr. Gifford's bill [H. R. 216] to legalize the acts of guardians, under orders defective in not prescribing notice, etc., recommending its passage.

Mr. MILLER. I had intended to prepare a minority report here. The object is to provide, that where the land of the ward has been sold by the guardian since 1852, in cases where he failed to show that it would be for the benefit of the ward, and when he failed as to the notice, the act of the guardian shall be legalized. Now, I think that, under such circumstances, where the sale has been a bona fide transaction, it ought to be legalized. I move that the report be laid on the table.

The report was accordingly laid on the table.

VOID ASSESSMENTS OF 1869.

On motion by Mr. RICHARDSON, the order of business was suspended, and the House took up the consideration of his bill [H. R. 157] authorizing the refunding of taxes paid by certain counties in 1869 and 1870, under erroneous and void assessment, on account of irregularities in the proceedings of the Board of Equalization, with the adverse report thereon by the Committee on the Judiciary; and he moved to refer the bill to the Committee on the Organization of Courts, with instructions to strike out the first section.

Mr. OFFUTT recited the provisions of the bill, and stated that the county of Marion refused to pay the taxes so erroneously assessed, and was sustained by the Supreme Court. It was reasonable, therefore, that the counties which have paid

their money so assessed and collected, should have it refunded to them. He argued at some length, and showed the law, that where taxes have been so collected the money shall be refunded. He concluded by expressing the desire to recommit the bill with instructions to amend by striking out the words, "out of any money in the Treasury not otherwise appropriated."

Mr. MILLER. This irregularity was on a technicality as to time or something of that sort, and because Marion county took advantage of this technical irregularity, that furnished no sufficient reason that other counties shall have the same advantage who do not apply to the courts. He moved ineffectually, that the bill be referred to the Committee on Ways and Means.

Mr. RICHARDSON'S motion prevailed, and the bill and instructions were referred to the Committee on the Organization of Courts of Justice.

REPORTS—CONGRESSIONAL APPORTIONMENT.

Mr. EDWARDS, of Lawrence, from the Committee on Elections, returned Mr. Hardesty's bill [H. R. 83] to divide the State into Congressional Districts, with amendments, which were concurred in, against a minority report submitted by Mr. Isenhower, for indefinite postponement; and then—

On motion of Mr. GIVAN, it was ordered that the bill, as amended, lie on the table, and that 200 copies thereof be printed.

Mr. JOHNSON, from the Judiciary Committee, returned the bill [H. R. 215] to create the [blank] Judicial Circuit, and transfer the county of Union from the 26th to the 4th Circuit, recommending that it be referred to the Committee on the Organization of Courts.

Which was concurred in.

CONTRACTS FOR ATTORNEYS' FEES.

He also returned Mr. Buskirk's bill [H. R. 20] concerning contracts wherein the obligor agrees to pay attorney's fees, etc., recommending its indefinite postponement.

Mr. BUSKIRK recited the provisions of the bill. All such contracts hereafter made shall be void; such existing contracts shall be sued within five days of maturity; if the judgment, or any part it, so recovered, be paid to the attorney representing the plaintiff the defendant shall be liable to plaintiff for it. It has been drawn in compliance with the almost unanimous desire of the people of my county, and I hope the report will be voted down. He demanded the yeas and nays on the question, which were taken, and resulted—yeas 41, nays 23.

So the report was concurred in, and the bill indefinitely postponed.

Mr. JOHNSON also returned Mr. Wesner's bill [H. R. 150] to repeal section 2 of the act of Decembr 2, 1855, defining certain misdemeanors, with the recommendation that it be indefinitely postponed.

The report was concurred in.

Mr. SHIRLEY, from the Committee ou Organization of Courts, reported back Mr. Riggs' bill [H. R. 223], creating the Thirtieth Judicial Circuit of Vanderburg county, with the recommendation that it pass.

It was ordered to be engrossed.

Mr. OFFUTT, from the same committee, reported back Mr. Wilson of Ripley's bill [H. R. 218] to amend section 208 of the practice act, recommending its passage.

It was ordered to be engrossed.

Mr. GLASGOW returned Mr. Edwards of Lawrence's bill [H. R. 206] to amend the Supreme Court act of 1852, with a motion that it be laid on the table, which was concurred in.

Mr. SHIRLEY returned Mr. Glasgow's bill [H. R. 194] to repeal section 1 of the descents act of May 14, 1852, recommending indefinite postponement, which was concurred in.

Mr. SATTERWHITE, from the committee on Banks, returned Mr. Riggs' bill [H. R. 198] to amend the savings bank act with amendment heretofore directed by the House—(to make uniform the time of declaring dividends)—which was adopted, and so it was ordered to be engrossed, and on the question of final passage it failed—yeas 44, nays 30, for want of the constitutional majority.

Mr. LENFESTY presented the petition of Overman and others of Grant county, for a good liquor law.

Mr. HATCH, from the Committee on Affairs of the City of Indianapolis, returned Mr. Glazebrook's bill [H. R. 219] to regulate the sale of drugs, with clerical amendments, which were adopted.

On motion of Mr. MILLER, the emergency clause was stricken out, and the bill was ordered to be engrossed.

Mr. GIFFORD, from the Committee on Cities and Towns, returned Mr. King's bill [H. R. 100] in relation to the widening and vacation of streets, recommending that 200 copies be printed.

Which was concurred in.

He also returned Mr. King's bill [H. R. 99] authorizing cities and towns of 10,000 and more inhabitants to borrow money, with an amendment, at two per cent.

Mr. MILLER submitted a minority report, recommending its indefinite postponement on account of its loose provisions.

The minority report was concurred in, and the bill postponed accordingly.

Mr. REEVES, from the Committee on Roads, returned Mr. Brett's bill [H. R 192] to amend the Supervisors' act, recommending its indefinite postponement. He also submitted an adverse report as to Mr. Gregory's bill [H. R. 145] to amend sections 17 and 20 of the Coroners' act; also an adverse report on the resolutions for abolishing the office of District Supervisors of roads, and substituting township Supervisors.

Which reports were concurred in.

Mr. BILLINGSLEY, from the Committee on Printing, asked and obtained further time to report on the matter of Mr. Shirley's bills in relation to the Public printing.

Mr. KING, from the Committee on Railroads, returned Mr. Edward of Lawrence's bill [H. R. 96] to repeal the act to authorize aid to the construction of railroads by counties and townships taking stock therein, reporting for its passage, and for a motion that the consideration of the bill be made the special order for Monday at two o'clock p. m.

Mr. BRANHAM indicated the intention of a portion of the committee to submit a minority report.

Mr. BAKER submitted a motion to make the matter a special order for Wednesday.

Mr. BRANHAM. The minority can make their report by Monday morning.

Mr. KIMBALL. I presume the House does not wish to hasten this matter, but to a portion of the people of Indiana this is an important matter, and delays are dangerous to them. Take my own county, for example. We have heavy taxes to pay and there is now an order for an election to impose a railroad construction tax under the act here sought to be repealed. And if this bill is voted down or too long delayed, they may possibly be compelled to pay a tax which perhaps most of the people do not desire to pay. Therefore I should prefer Monday to Wednesday.

Mr. BRANHAM. I hope the House will not take hold of this matter in a great hurry. If the law is not repealed at once, it can work no great hardship. The law is carefully guarded, and if the majority are not competent to decide such a question as it contemplates, I don't know who is. This law goes upon a principle that lies at the foundation of the government. It says a majority of the legal voters shall have the right to assess themselves. I acquiesce in the motion to make the bill the special order for Monday.

The bill was made the special order for Monday, 2 o'clock, p. m.

Mr. BAXTER, from the Committee on Reformatory Institutions, returned his bill [H. R. 210] to amend section 20 of the act to establish a female prison and reformatory institution for girls and women. Also, his bill [H. R. 215] supplementary to the act to establish a reformatory institution for girls and women, with an amendment filling the blank for completing the building and fencing the grounds, with the words, "fifty thousand dollars." The amendment was adopted, and the bills were ordered to the engrossment. He also returned Mr. Butts' bill defining it as a misdemeanor to keep a house of ill-fame, or to rent a house, etc., for such purpose, prescribing penalties, rules of evidence, etc., [first offense, penalty, fine and imprisonment $10 to $1,500, imprisonment not exceeding three years; second offense, penalty, fine from $10 to $2,000 with imprisonment,] with a recommendation that it pass. It was ordered to the engrossment.

THIRD JUDICIAL CIRCUIT.

Mr. PEED, from the Special Committee thereon, returned his bill. [H. R. 21] changing the time of holding Court in the Third Judicial Circuit, with an amendment which was adopted, and on his motion (the restrictions being suspended for the purpose) the bill was advanced and finally passed the House—yeas 78; nays 0.

HEATING AND VENTILATION OF THE HALL.

Mr. MELLETT, from the special committee to inquire into the matter of heating and ventilating the hall, reported that the flues to conduct the hot air into the hall have not been cleaned for years; that the hot air is supplied from the vitiated air of the cellar, and that the means of escape of foul air from the room are inadequate. They recommend that new pipes be constructed to conduct pure air to the heating furnace, and that four new flues be constructed for the escape of foul air from the hall. They say the improvements can be constructed for $400, and recommend that it be attended to at once. The report was concurred in.

STATES' SOLDIERS—CIRCLE PARK MONUMENT.

Mr. KIMBALL, from the majority of the Special Committee thereon, returned Mr. Johnson's bill [H. R. 124] to provide a State monument in the city of Indianapolis to the memory of soldiers and seamen in

the late wars, with an amendment reducing the appropriation to $75,000, and providing that not more than one-third of the sum shall be expended in one year, and provided, further, that no part of the appropriation shall be used until there shall have been subscribed for the same purpose the sum of $35,000 and one-third of the same collected.

Mr. OFFUTT submitted a minority report, recommending a substitute with this title: "A bill for an act to appropriate $100,000 to certain of the widows and orphans of deceased soldiers." And the body of the bill makes said appropriation and provides for its distribution among such of the widows and orphans of deceased Indiana soldiers as are in actual need.

Mr. WALKER. This minority report is forbidden by the 19th rule, which says: "No motion shall be entertained seeking to change the character of the original proposition."

The SPEAKER. The chair thinks such a ruling might be arbitrary here.

Mr. OFFUTT. It is true that the proposed object of the bill is the erection of a State Monument in this city to the memory of soldiers of the war of 1812, the Mexican and the late wars. I did not present this report for the purpose of any reflection on those brave men who defended their country in her time of need. There is no man in the House who would go further or do more to perpetuate their memory than I. But it seems to me that to erect a monument in the city of Indianapolis in the manner proposed in the original bill would be no suitable memorial of the dead, and no lasting benefit of the living. And I think I am right in assuming that, if any appropriation of a hundred thousand dollars should be given to Marion county for the purpose of erecting this monument, every other county in the State might, with a similar propriety, ask for a similar appropriation for a similar monument in their several cities. But further: it has been said, I believe, in the Indianapolis *Journal*, that the erection of the proposed monument would not satisfy the friends of this bill—that they want also to erect a fountain on the same site at the public expense. And I think I am authorized to say, that, if this bill should be carried, at the next session there will be an effort made to change the character of the original design, and erect a fountain. It has been already charged that this is an extravagant Legislature, and that it will expend more money than any former Legislature. And, sir, the people will not at this time, in my judgment, appreciate the expenditure of $100,000 for this purpose; and it seems to me that this bill might with propriety be indefinitely postponed. There are other public needs more pressing—the provisions for the benevolent institutions and the prisons of the State, the demands for public education, for a new State House, etc. The taxes are oppressive, and I do not believe an appropriation of this character would be sanctioned by the people. I know the delicacy that belongs to the discussion of this proposition—that, perhaps, the motives of the opposition may be called in question. I confess that I hesitated before coming to the conclusion to oppose it, but I came to that conclusion because of my conviction that the people will not justify it. I know it is a favorite measure with the gentleman from Marion, and regret the necessity—I say not the danger—of opposing him. Whilst this monument might be quite an ornament to the city; whilst it might enhance the value of property round the Governor's Circle, still it will not advance the interests of the taxpayers. I am opposed to this monument for the memory of our fallen heroes for these special reasons. Whilst I would be glad to do what we may to relieve the necessitous poor amongst their surviving widows and orphans, and I believe that if the dead could be heard from their graves they would say that if this money must be appropriated, let it go to their widows and orphans.

Mr. CLARK opposed the bill, by considering the paramount claims for the schools on the part of the 127,000 in the State who can neither read nor write, and on the part of the hundreds of boys in Carroll county that need a reformatory school. The soldiers of the State already have a monument that is far more enduring than marble or granite.

Mr. FURNAS added this: That a good many counties have already erected their local soldiers' monuments, taxing themselves heavily for the purpose; and if this bill passes they will be taxed over again for the State monument—and he felt cautious because he knew we would have use enough for the public money without giving anything for mere ornamentation.

Mr. BRANHAM, satisfied that this is not an opportune moment for the bill, indicated a motion to lay the subject on the table.

Mr. JOHNSON would say a word in answer to the gentlemen from Hendricks (Mr. Furnas) and the gentlemen from Hancock (Mr. Offutt). The amount of the

tax for this monument would be exceedingly small to the individual when distributed all over the State. By a nett calculation, it will cost each inhabitant of the State one and one-third cent per year for three years. In answer to the intimation that the disabled soldiers are not taken care of, it is only necessary to say that the general and State governments have made provision for them. In answer to the report submitted by the minority to divert this money for the benefit of the widows and orphans of the soldiers, it is hardly necessary to say that, when we go over the State and look at their vast number, it would suffice but for a very exceedingly small morsel for each one. Sir, I know something of the minds of the widows of our soldiers, and I know something of the sentiments with regard to those dead soldiers in the minds of the people. And if you were to divide these seventy-five thousand dollars among those widows and orphans they will gladly enough give it all back for this monument, because what you would give them in the way of a support would soon be gone; its benefits would be transient; and because the State would apply it to the erection of an imperishable shaft in the commercial center of the State that would keep the memory of their dead forever green in the hearts of all. Mr. J. referred to appropriate site for the proposed monument in the center of Circle Park, to face the new State House down Market street, to the west—the two grandest monuments of the State fronting each other—and both in sight of Crown Hill, where so many of the soldiers have been laid away in their sleep. God bless the sleeping soldiers of Indiana! Generations will bless the Legislature for this appropriation.

Mr. SHIRLEY objected to what seemed to be an intention to press such a question as this to the vote in its present shape. He would honor the soldiers, but he would not do so by placing their monument where it would most of all benefit the adjacent property owners. He would have it erected at Crown Hill. The reasoning was sound and unanswerable against the monument at this time; but if we are to have it, I want it where it will be seen by those concerned for the just memory of the soldiers—where we meet every year to strew their graves with flowers. I am not going on the record as indifferent to the memory of the fallen soldiers of Indiana; but I am opposed to putting such a monument where gentlemen want it, a place comparatively obscure and unknown except to the owners of property adjacent.

Mr. WILSON, of Ripley. The gentlemen would place it three miles from the city—and if that is not obscureness I don't know what is. It is our proposition to place this monument in the centre of the great railroad city. I believe that we could place it in no other position where it would receive so much consideration—so many visitors. It was well observed by the gentleman from Marion (Mr. Johnson) that it should be here where the soldiers gathered during the war, and where so many of them sleep. I believe the bill is so well guarded that every cent of the money will be given to the construction of the monument itself. It has been sixty years since we had the last war here with the Indians and with Great Britain; twenty-five years since the war which fixed our title to the great Pacific Coast, and twelve years since the great war of the rebellion, and are we to be told that the people of Indiana are too poor for this work? Then we are a poverty stricken people indeed. I hope the House will refuse to lay this subject on the table, for I feel that such a vote would be offering an insult—an indignity—to the memory of the fallen sons of Indiana.

Mr. SMITH. My county is taxing herself to build a soldiers' monument equal to that proposed by this bill; and it would be unjust to call on them to aid in the erection of another.

Mr. JOHNSON. We are to have $35,000 subscribed and paid into the fund for the monument in the Circle. Gentlemen say we are specially benefitting private parties. I simply tell them that we are getting private subscriptions beyond anything that can be estimated as private benefits.

Mr. KIMBALL. What I wish to say is this: That the county of Marion does not ask any other county to do what she does not propose to do herself. It is true that some counties have erected their soldiers' monuments. They are to the memory of their fallen in the late war; but this is to the memory of those who saved the Western States from the invasions of the British and Indians as well as those who gave their lives to their country's renown in the Mexican war and the war of the rebellion. It has been well remarked by my colleague here (Mr. Johnson) that the widows and orphans of these soldiers would most readily contribute their days' wages—yes, their months' wages, to a monument to the memory of their dead husbands and fathers. Now, Mr. Speaker, without delaying this matter

...ther, I want this distinctly kept in ...d, that it is not Marion county that is ...ing for this monument. It is the State ...diana; and it is wanted here, where ...e coming together into their commer...l center can look upon a work erected ...herself to immortalize the memory of ...soldiers. If the $75,000 be given by ...State, we will raise the $35,000, and ...d this monument; we will not spend a ...dollar foolishly.

Mr. RENO considered that we have outgrown the age of monuments. This monument would never tell us even the names of those in the grave to whose memory it is proposed to be erected. Better educate the people with our money.

Mr. BRANHAM. If any man has a right to speak in this matter, he has. Three out of four—his sons—sleep in soldiers' graves—laid down their lives for their country. And when you talk about monuments over these graves, or anywhere else, you mistake the spirit of the age. The memory of those who defended these States against the British power; the men who carried our flag victoriously over the plains of Mexico; and the glorious men who carried the flag into the Southern States, and gave their bodies for a rampart for the power that crushed the rebellion, have erected in your hearts a monument that is not to be compared with a monument of stone. It was for the purpose of not compelling men to take position on this question that I moved to lay it on the table, and would do so again. Bills for the appropriation of about half a million have been passed; and a gentleman here says $400,000 will be necessary; and there will be bills offered for more. So that the Treasury will not furnish enough for the present requirements of the State.

Mr. WOODARD did not believe that there is a man on this floor belonging to either party who is not a friend of the soldier and careful of his memory; but the advantages to be derived from this appropriation of the State's money were so far outweighed by the benefits it might confer in other directions, that he would not vote for anything for a monument. The soldiers' memory can never be obliterated; and if we can do anything let it be to take care of their widows and orphans.

Mr. BRANHAM now moved to lay the subject on the table, the vote resulting—yeas 54, nays 30—as follows:

YEAS—Messrs. Anderson, Baker, Baxter, Blocher, Brenton, Branham, Broadus, Butterworth, Butts, Carr, Chappell, Cline, Coffman, Crumpacker, Dial, Dobson, Eaton, Farmas, Given, Glazebrook, Goble, Gregory, Hedrick, Heller, Henderson, Hollingsworth, Hunter, Jones, Lenfesty, Martin, McConnell, Mahoney, Nesbitt, Miller, North, Offutt, Pfrimmer, Reno, Richardson, Rudder, Scott, Shutt, Smith, Stanley, Strange, Teeter, Thompson of Elkhart, Thompson of Spence, Troutman, Tulley, Whitworth, Wilson, of Blackford, Woodard and Winn—54.

NAYS—Billingsly Buskirk, Cauthorn, Cobb, Cowgill, Edwards, of Lawrence, Ellsworth, Eward, Gifford, Glasgow, Gronendyke, Hatch, Johnson, Kimball, King, Kirkpatrick, Lent, Peed, Prentiss, Reeves, Riggs, Shirley, Thayer, Tingley, Walker, Wesner, Willard, Woollen, and the Speaker—30.

So the matter was laid on the table.

Mr. SHIRLEY offered a resolution reciting that whereas it is understood the Committee on Public Printing had been prepared to report his bills for the abolition of the office of State Printer at the morning session, therefore the committee be instructed to report both bills [H. R. 9 and 31] on Monday morning.

Mr. KING moved to lay the resolution on the table.

Mr. SHIRLEY demanded the yeas and nays.

The House then took a recess till two o'clock p.m.

AFTERNOON SESSION.

The House was called to order by the Speaker, at two p. m.

The SPEAKER laid before the House a communication from the Auditor of State, transmitting advance sheets of that part of his report relating to insurance.

THE CALENDAR.

The bill [S. 3] to amend the act relating to the organization of voluntary associations, was read the first time and referred to the Committee on Corporations.

COUNTY AND TOWNSHIP R. R. STOCK.

The bill [S. 5], requiring railroad companies to issue stock to the tax payers of counties and towns where they have subscribed, and where they have paid for the same; and, where the same is unclaimed, to issue the certificates to the common school fund, was read the first time.

Mr. WOODARD moved to suspend the rules, so that the bill might be put upon its passage: and the rules were suspended accordingly.

Some debate ensued as to the merits of the bill, Messrs. PEED and WOODARD supporting the bill, and Mr. SHIRLEY favoring the reference of the bill to a committee in order that it might be examined with a view to securing the benefit of such stock certificates to the party securing them, and as to determining whether such holder of stock certificate is liable as a stockholder; and Mr. WOOLLEN contending that the law would work a hardship and injustice to the companies, inasmuch

as not one tax payer in ten would be entitled to receive more than a fraction of one share of stock, and its distribution in such small sums would involve interminable labor in declaring dividends.

Mr. LENFESTY moved to refer to the Judiciary Committee.

The motion was agreed to.

COAL MINING REGULATIONS.

Mr. WILSON, from the Committee on the Judiciary (having obtained unanimous consent), returned Mr. Gifford's bill [H. R. 83] providing for the health and safety of persons employed in the coal mines of the State, with amendments by way of substitute, viz.: A bill [H. R. 230] with similar title.

The report was concurred in, and the bill was read the first time.

On motion of Mr. WALKER (the constitutional restriction having been suspended for the purpose), the substituted bill was read the second time by title, laid on the table, and 200 copies thereof were ordered to be printed.

THE CALENDAR.

The SPEAKER returned to the consideration of propositions in the calendar.

The bill [S. 6] concerning the transportation of freights and passengers over railroads in this State, repealing and prescribing penalties, was read and referred to the Committee on the Judiciary.

The bill [S. 10] to amend section 58 of the city corporation act of March 14, 1867, was read the first time, and referred to the Committee on Cities and Towns.

TWENTY-THIRD COMMON PLEAS DISTRICT.

The bill [S. 68] to amend the second section of the act creating the Twenty-third Common Pleas District, of March, 1867, was read the first time.

On motion of Mr. ODLE, there was a suspension of the constitutional restriction, and the bill was advanced and finally passed the House without amendment—yeas 80, nays 0.

The bill [S. 88] to authorize and encourage the construction of levees, dykes, drains and ditches, and providing for the organization of associations for such purposes, prescribing their powers and duties in the assessments of damages, etc., was taken up and read the first time.

On motion of Mr. WOOD, it was laid on the table, and 200 copies thereof were ordered to be printed.

The bill [S. 124] to create the Twenty-sixth Judicial District was read the first time.

Mr. SHIRLEY moved to refer to the Committee on the Organization of Courts.

A long debate ensued on the merits of bill, participated in by Messrs. SHIRLEY, EDWARDS of Lawrence, WOOLLEN, COWGILL and WOODARD, till—

Mr. CAUTHORN moved to lay the bill upon the table.

It was agreed to.

SIXTH COMMON PLEAS DISTRICT.

The SPEAKER next announced the consideration of Mr. Broadus' bill [H. R. 172] to fix the time of holding Common Pleas in the Sixth Judicial District, embracing the counties of Franklin, Union, Fayette and Wayne—the question being on the third reading.

Mr. BROADUS explained, and the bill passed the final reading in the House—yeas 70, nays 3.

COUNTY AND TOWNSHIP RAILROAD AID.

Mr. WYNN asked and obtained leave to introduce a bill [H. R. 231] to amend sections 16 and 18 of the act to authorize aid to railroads, by counties and townships taking stock therein, and making donations thereto, approved May 12, 1869. He explained that it was to provide against the law which after a certain amount of work is done, requires the Commissioners to pay over the local subscription to a railroad company, whose road may never be built. Another provision enables the Commissioners to postpone the collection of taxes, where the railroad company fails to begin their work within one year. It provides, further, that where the railroad has not been commenced at the time of the collection of the taxes, the Commissioners may withhold the payment; and the next provision is that the money so collected shall go into the school fund of the county in which such taxes were raised. He moved to suspend the restrictions for the immediate passage of the bill.

Messrs. MELLETT and RICHARDSON saw no occasion demanding a suspension of the restrictions. Better repeal the statute.

Mr. WYNN. It simply provides, that where the taxes have been assessed, and the work has not been done, the County Commmissioners may restrain the collection of taxes. It does not suspend the taxes at all. If after the 25th of December the Railroad Company shall come up and go to work, the taxes will be collectable again the next year. It is a proposition directly in the interests of the people.

Mr. PEED. I move that the bill be referred to the Commiltee on Railroads.

Mr. COWGILL. I hope the bill will be referred to that Committee. The 15th sec-

tion of this law of 1869 forbids the payment of tax money of this kind until fifty per cent. of the road work shall have been done. I think the law we have already is sufficiently guarded. Still I might not find anything objectionable in this bill.

The SPEAKER. On the first reading of a bill it is not in order to amend—nothing, except the motion to reject.

The bill was referred to the Committee on Railroads.

APPORTIONMENT.

Mr. MELLETT obtained unanimous consent to introduce a bill [H. R. 232] to fix the number of Senators and Representatives of the General Assembly of the State, and apportion the same among the several counties.

Mr. KELLER moved ineffectually to lay it on the table; and the bill was then referred to the Committee on Elections.

COURT TERMS AND TRIALS.

Mr. SHIRLEY asked and obtained leave to introduce a bill [H. R. 234] regulating the terms of courts, the time of forming issues for trial in the civil and criminal courts, and prescribing the power of the judges therein. (It empowers the judges to fix the terms of the courts and to docket the cases for trial in all civil and criminal courts, having regard to the population and business of each district, and to the provision that there shall not be less than two terms of the Circuit Court and three terms of the Common Pleas Court held annually in each county of the State.)

It was referred to the Committee on the organization of Courts.

The SPEAKER announced the consideration of the Senate amendment to Mr. Cogwill's 22d Circuit Court bill [H. R. 49], [which provides a clause of emergency], and it was taken up and concurred in.

On motion of Mr. WOOLLEN, his public funds depository bill [H. R. 24] was taken from the table and referred to the Committee on the Judiciary.

Mr. WOODARD submitted a preamble and resolution reciting the recommendation of the late Secretary of State, for a reorganization of that office, and the fact that the General Assembly has recently increased the duties of that office, and resolving for the appointment of a special committee of three members of the House to act alone, or with a similar commiftee on the part of the Senate, to investigate the conditions and the needs of the office of the Secretary of State; and report by bill or otherwise.

It was adopted.

The House then adjourned.

THE

BREVIER LEGISLATIVE REPORTS.

THIRTEENTH VOLUME.

INDIANA LEGISLATURE.

IN SENATE.

SATURDAY, December 14, 1872.

The Senate met pursuant to adjournment, President Friedley in the Chair.

On motion, the reading of the journal was dispensed with.

PETITIONS AND MEMORIALS.

Mr. SARNIGHAUSEN presented a paper from taxpayers of Allen county, remonstrating against the passage of a bill now on the Senate files authorizing county boards to appropriate money for keeping in repair canals running through or along the lines thereof.

Mr. SARNIGHAUSEN said this remonttrance was signed by some twelve hundred and fifty-five taxpayers, and in a letter I am informed that there is yet another being circulated having already on it some eight hundred signatures more. I would say, continued Mr. S., that I do not fully agree with the contents of the remonstrance, but as it has been sent to me I could not refuse to present it to the Senate. I hope the bill referred to will be made in such a shape that I can vote for it. As the Committee on the Judiciary has already reported the bill back, I move that the remonstrance be placed on the files and taken into consideration when the matter comes before the Senate.

Mr. BIRD replied that the memorial was from a gentleman of our county who previous to the canal being built had a dam and mill on the river. Since the building of this canal, in times of low water, his mill has no water, because the canal consumes it all. This one man, in consequence of his personal interest, has gotten up this petition. Besides this memorialist and the few whom he could influence, the citizens of Allen county were earnestly in favor of the bill. He moved to refer the bill to the Judiciary Committee.

The motion was agreed to.

CONGRESSIONAL APPORTIONMENT.

The Congressional apportionment bill [S. 54] being the unfinished business, Mr. GLESSNER moved that the bill be printed.

On motion by Mr. BROWN, this motion was laid on the table. Yeas, 22; nays, 14.

On motion of Mr. TAYLOR, the message from the House announcing the passage of the bill [S. 5] in regard to the distribution of railroad stock among taxpayers, with an amendment was taken up, and the amendment was concurred in.

On Motion of Mr. WILLIAMS, the bill [H. R. 2] to fix the time of holding courts in the Third Judicial Circuit was read the first time.

On motion of Mr. BROWN, the bill [H. R. 163] to provide for a uniform assessment of property, etc., was taken up, read the first and second time by title only, and referred to the Committee on Finance.

THE TIPPECANOE BATTLE GROUND.

The PRESIDENT announced the special order of business, being the bill [S. 4] to provide for a permanent enclosure around the Tippecanoe Battle Ground, the same being on its first reading.

Mr. NEFF moved to amend the first section by striking out $24,000 and inserting in lieu $14,000.

The PRESIDENT decided the amendment out of order, the Senate having filled the blank last evening.

Mr. DITTEMORE moved to reconsider the vote of last night, by which the blank was filled.

On motion of Mr. DWIGGINS, the motion to reconsider was laid on the table.

On motion by Mr. BROWN, the bill was considered as engrossed, and read the third time.

Mr. NEFF said he was friendly to the project sought to be accomplished by the bill, but believed the amount of the appropriation was too large. He and another Senator this morning visited the same manufacturer from whom the engineer on whose estimate the figures in the bill are based claims to have obtained his data, and found that the best fence he had could be furnished for $4 50 a foot, while the estimated cost according to the bill is $7 27 per foot. If the fence could be obtained for $14,000, he did not see the necessity nor the propriety of appropriating $24,000, and should therefore vote against the bill.

Mr. GREGG said he should vote for the appropriation for two reasons—first, because he believed the State could do no more proper and graceful thing than to suitably care for the ground in which the bones of our heroic dead rest, and second, because he hoped it would stimulate the State of Ohio to make suitable provision for the care of the tomb of the hero of Tippecanoe at North Bend.

Mr. DAGGY said the bill, by its very terms, provides not only for the inclosing of that ground, but that the surplus shall be applied to another purpose, another job to be set up for the State to pay for hereafter. He was not in favor of indirection of that kind. If they want a monument, and want the State to pay for it, let them put it in the bill in so many words, so that we may know what we are voting for. Another thing. We are told that Mr. E. M. Talbott says that this fence would cost so much. Who is Mr. Talbott? What interest has he in it? What per cent. does he get out of that appropriation?

A Senator—He gets none; no more than you do.

Mr. DAGGY—Did not doubt the gentlemen composing the committee reported properly and fairly so far as their investigations went, but how far have they investigated? He thought a smaller appropriation, or even a larger appropriation, with a recommendation that its expenditure be left discretionary with the gentlemen who shall have the fence built would be proper and right. But when they come here and say, There is $25,000 to provide for a particular purpose, conceding that it is more than enough, the surplus to be used, after fat jobs are taken out of it, for a certain other purpose, he must object. He should not vote for the bill, because he did not think it was a safe bill, but as wasteful and extravagant. Whenever they present a bill for properly fencing this ground, and that alone, he would favor it.

Mr DWIGGINS thought it very remarkable that Senators should be so very economical on this occasion, and also that they should insist that there was a job in this bill. If there was any job in it as the Senator charged, it was for the benefit of the Governor, the Secretary, Auditor and Treasurer of State. The bill simply authorizes these officers to properly inclose the battle ground and to draw upon the State Treasury to the amount of $24,100 for that purpose, if necessary. If it can be done for $14,000, they are bound to do it for $14,000. If it can be done for $10,000, they are bound to do it for $10,000. He thought those gentlemen could be trusted to administer the fund honestly and prudently.

Mr. HARNEY recollected that in the years 1849–50 he was a member of a legislative committee which reported in favor of fencing this battle ground. A wooden fence was built around it, but fire came and burned up a great portion of it. Objections can always be raised where money is to be appropriated. You can not make it beyond peradventure that means will not be misappropriated, but from his knowledge of the people of Tippecanoe county, he did not believe they would suffer anything of the kind to be perpetrated.

Mr. HOUGH did not wish to make any factious opposition to this measure, but thought the grounds could be inclosed in a much cheaper manner than proposed in the bill and as substantial. Many Senators insist that it shall be an iron fence, and he stood ready to vote for any bill that is fair to the taxpayers. But he opposed this bill because he believed a fence such as is contemplated can be made for $10,000 less than the sum named in the bill.

On motion by Mr. TAYLOR, at the suggestion of several Senators, the section providing for the expenditure of the surplus funds in the erection of a monument

on the battle ground, was stricken out by unanimous consent.

Mr. SCOTT demanded the previous question

The Senate seconded the demand, and under its operations the bill passed the Senate. Yeas, 28; nays, 0.

Pending the roll-call, Mr. BEESON, when his name was called, spoke as follows: Mr. President—One word in explanation of my vote. In looking over this Senate and the House of Representatives, and listening to the roll-call of both houses, I see not a face nor hear a name responded to that was associated with me twenty-two years ago, when this remarkable section was added to the constitution of the State of Indiana: "It shall be the duty of the General Assembly to provide for the permanent enclosure of the Tippecanoe Battle Ground." Well knowing, Mr. President, the noble impulses that actuated the bosoms of the men of that day to make that imperative demand upon the Legislature of the State of Indiana, and being the only member of either house of the Legislature at this time that was associated with those men, and actuated now by the same noble impulses that actuated them, I cheerfully record my vote. "Aye."

Mr. HOUGH, in explanation of his vote, said that he now voted for the bill with as much cheerfulness as any member here—the clause allowing the expenditure of the surplus funds being stricken out.

Mr. NEFF, when his name was called, said: He also believed the bill in a much better shape than before the last amendment was made. The expenditure is now left in the discretion of the State officers. Before, they had no discretion. The $24.000 was to be paid out either for a fence or for a monument Now he was willing to vote for the bill.

Mr. TAYLOR took occasion, when his name was called, to state that the monument clause was put in the bill not at the request of his constituents or of himself.

The vote was then announced, as above.

So the bill passed the Senate.

WABASH AND ERIE CANAL.

Mr. DWIGGINS, by consent introduced a bill [S. 159] providing for the submission to the qualified electors of this State, for their ratification or rejection, a proposition to amend the Constitution of the State, by adding to the fifth article a provision in regard to the debt charged upon the Wabash and Erie Canal—[The election to be held on the——day of——]—no law or resolution shall be passed that shall recognize any liability of the State on account thereof, under the acts of 1846-47.

It was read the first time.

On motion of Mr. DWIGGINS the constitutional rule was suspended and the bill read the second time.

On motion by Mr. DWIGGINS, the blank was filled by inserting "the 28th day of January, 1873."

On his further motion the bill was considered as engrossed, and after some correction was read the third time and passed —yeas 37, nays 0.

LEGISLATIVE APPORTIONMENT.

On motion by Mr. DWIGGINS, the bill [S. 146] redistricting the State for legislative purposes, was taken up and read the second time. The bill is as follows:

An act to fix the number of Senators and Representatives in the General Assembly of the State of Indiana, and to apportion the same among the several counties of the State, and declaring an emergency.

SECTION 1. Be it enacted by the General Assembly of the State of Indiana, that the General Assembly of the State of Indiana shall consist of fifty Senators and one hundred Representatives.

SEC. 2. That the said Senators shall be apportioned among the several counties as follows, to wit:

The counties of Posey and Gibson shall elect 1; Vanderburg, 1; Warwick and Pike, 1; Spencer and Perry, 1; Sullivan and Knox, 1; Davies and Greene, 1; Martin, Orange and Dubois, 1; Crawford and Harrison, 1; Floyd and Clark, 1; Washington and Jackson, 1; Lawrence and Monroe, 1; Brown and Bartholomew, 1; Scott and Jennings, 1; Jefferson, 1; Switzerland, Ohio and Ripley, 1; Decatur and Rush, 1; Vigo, 1; Owen and Clay, 1; Morgan and Johnson, 1; Putnam and Hendricks, 1; Pike and Vermillion, 1; Fountain and Warren, 1; Tippecanoe, 1; Benton, Newton, Jasper and White, 1; Lake and Porter, 1; Laporte 1; St. Joseph and Starke, 1; Marshall, Fulton and Pulaski, 1; Kosciusko and Whitley, 1; Elkhart, 1; Noble and Lagrange, 1; Steuben and DeKalb, 1; Allen, 1; Adams and Wells, 1; Huntington and Wabash, 1; Grant, Blackford and Jay, 1; Miami and Howard, 1; Cass and Carroll, 1; Hamilton, Tipton and Clinton, 1; Boone, 1; Madison and Delaware, 1; Randolph, 1; Wayne, 1; Henry and Hancock, 1; Fayette and Union 1; Marion, 2; Marion and Shelby, 1; Dearborn and Franklin, 1; Montgomery, 1;

SECTION 3. That the Representatives shall be apportioned among the several counties of the State in the following manner, to wit:

The county of Posey shall elect 1; Gibson, 1; Vanderburg, 2; Warrick, 1; Pike, 1; Spencer, 1; Perry, 1; Sullivan, 1; Knox, 1; Daviess, 1; Greene, 1; Martin and Dubois, 1; Crawford and Orange, 1; Harrison, 1; Floyd, 1; Clark, 1; Washington, 1; Jackson, 1; Lawrence, 1; Monroe, 1; Brown and Bartholomew, 1; Jennings, 1; Scott, Jennings and Decatur, 1; Jefferson, 1; Ripley and Jefferson, 1; Ripley, 1; Switzerland and Ohio, 1; Decatur, 1; Rush 1; Vigo, 1; Owen, 1; Clay, 1; Morgan, 1; Johnson, 1; Putnam, 1; Hendricks, 1; Putnam and Hendricks, 1; Parke, 1; Vermillion, 1; Parke and Montgomery, 1; Warren, 1, Fountain, 1; Tippecanoe, 2; Benton and Newton, 1; Jasper and White, 1; Lake, 1; Porter, 1; Laporte, 1; St. Joseph and Starke, 1; Marshall, 1; Kosciusko and Fulton, 1; Fulton and Pulaski, 1; Kosciusko, 1; Whitley, 1; Elkhart, 1; Noble, 1; Lagrange, 1; Steuben, 1; De Kalb, 1; Allen, 2; Adams and Wells, 1; Huntington, 1; Wabash, 1; Huntington and Wabash,

1; Grant, 1; Jay, 1; Miami, 1; Howard, 1; Cass, 1; Carroll, 1; Hamilton, 1; Hamilton and Tipton, 1; Clinton, 1; Boone, 1; Montgomery, 1; Madison, 1; Delaware, 1; Blackford and Delaware, 1; Randolph, 1; Wayne, 2; Henry, 1; Hancock, 1; Henry and Madison, 1; Fayette and Union, 1; Marion, 4; Marion and Shelby, 1; Shelby, 1; Dearborn, 1; Franklin, 1; Noble and Elkhart, 1; St. Joseph, 1; Miami and Howard, 1.

The fourth and fifth sections simply repeal all laws in conflict with this act, and declare an emergency.

Mr. DWIGGINS moved that the bill be ordered engrossed.

Mr. GLESSNER moved that the bill be laid on the table and printed.

Mr. WILLIAMS moved to refer the bill to a committee of one from each Congressional District.

Mr. FRIEDLEY of Lawrence moved to lay the motion to refer on the table.

Mr. DWIGGINS insisted that his motion took precedence.

The President pro tem. [Mr. DITTEMORE] decided that the motion of Mr. Williams to refer takes precedence, and the question is to lay that motion on the table.

This latter motion was agreed to by yeas 21, nays 14.

Mr. SLEETH demanded the previous question.

Mr. O'BRIEN desired that the bill should be laid on the table, to give him time to examine it. He was not ready to vote on the bill.

At a quarter before one o'clock the question being on seconding the demand for the previous question on the passage of the bill [S. 54] for an act to redistrict the State for Senatorial and Representative purposes, and the yeas and nays having been demanded, ordered and being taken thereon—

The Senate seconded the demand for the previous question by yeas 23, nays 14.

Pending the roll-call—

Mr. WILLIAMS, when his name was called, desired to explain why he should vote, not only against seconding the demand for the previous question, but in opposition to the bill at any stage in the proceedings. Under this bill, he was understood to say, that Knox and Sullivan Counties with a population of 9,254, were only allowed one Senator and two Representatives, while the counties of Parke and Vermillion, with a population of 6,305 has the same representation. This of itself is so glaring a piece of injustice to ask of him support the demand for the previous question. Again, the population of the county of Allen, 10,316, get no more representation than Wayne with less than that, there is injustice again. And when the counties of Dearborn and Franklin have a Senator and two Representatives, and the county of Randolph with a Senator and Representative, having a less population than the county of Knox, there is injustice there. Then the counties of Union and Fayette, with scarce enough of a population to allow them a Representative without a Senator, are given a Senator and two Representatives, while his county [Knox] with nearly twice the population has only one joint Senator and one Representative. Is that all the injustice done by the bill? No, sir: He saw Tipton county deprived of the right of representation and overshadowed by Hamilton county, and he saw the whole power of Shelby county crippled by coupling it with Marion, and surely there is injustice there. It was too big a dose for him to vote to second the demand for the previous question. And why couple Montgomery county with the county of Parke, which has already more representation than it is entitled to, but for the purpose of overshadowing Montgomery county? Montgomery is included with Parke and not even allowed a Representative alone. When he saw such injustice as this towards the people of Indiana, disfranchised, as they are, he could not vote to sustain the previous question. If he were in the majority he would not present such a bill here, for an intelligent and honest body to sanction, and he was astonished to see Senators desiring to pass such a measure, and desiring to fasten it upon the people of the State for the next six years. Then Laporte county, with a population of 6,559, is allowed no more representation than the county of Randolph, with 4,804, thus disfranchising 1,800 of her citizens.

Mr. NEFF, interposing. Didn't you vote injustice to Delaware county two years ago?

Mr. WILLIAMS. I did not If the Senator wants to bring that matter up, he can have it as soon as he pleases. I could point out, perhaps, thirty other places in this bill almost, if not equally, as objectionable as the ones I have already pointed out.

The vote was then announced as above.

So the Senate seconded the demand for the previous question, and under its operation the vote on the motion to order the engrossment of the bill resulted as follows:

YEAS—Messrs. Beardsley, Beeson, Brown, Bunyan, Chapman, Collett, Dwiggins, Friedley, Gooding, Haworth, Hough, Howard, Hubbard, Miller, Neff, Oliver, Rhodes, Sleeth, Taylor, Thompson, Wadge, Mr. President—22.

NAYS—Messrs. Armstrong, Bird, Bowman, Carnahan, Cave, Daggy, Dittemore, Glessner, Gregg, Harney, O'Brien, Sarnighausen, Smith, Stroud, Williams—15.

Pending the roll call—

Mr. GREGG, when his name was called, explained that he should vote against the motion, because it cuts off amendments, and there were two reasons why he would not vote to cut off all opportunity for offering amendments to the bill. The first reason is, the bill should be amended. He found, by it, that the counties of Union and Fayette have one Senator, with a population of 4,250, while the counties of Franklin and Dearborn have but one, Franklin with a population of 4,548—a larger voting population in Franklin county alone than in the other entire district—and Dearborn has 5,500, the two together 10,048 votes. Is that honest? Is that fair? Ought he to vote to enforce a bill that disfranchises his people? This, he said, in addition to the remarks made by the Senator from Knox [Mr. Williams], and further, when a bill of that character is proposed to be pushed through this body, the minority will resort, I trust, to any measure to defeat it. Do you suppose I would dread going back to my people to avoid legislation of this kind or character? Or does the majority suppose that because there is a bolting act with a penalty of $1,000 attached to it, that we would pay any attention to that while endeavoring to prevent the passage of such a measure as this, which would fasten such a wrong upon our people? I represent a people that pay almost as much tax as any Senator on this floor, and they are deeply interested in the representation they are to have in future legislation in this State, and for that reason I vote "No."

Mr. HARNEY, when his name was called, declared that he would not be very hard to please, but the bill before the Senate he could not support. Since being in this Assembly it has been a matter of congratulation to him that business has gone along so harmoniously. But it seems that after gentlemen of the majority have used our courtesy, after they have got through with us, like the ox that the farmer has put in his crop with, they will turn us over to the slaughter house. At the end of the session we come across a bill evidently fixed up in caucus and brought deliberately into the House, and all debate upon it is cut off. He could not see how gentlemen of the majority can expect that the minority can take any further interest in this Legislature being a success, only as their people were directly interested. There are some very dangerous precedents in this matter. Certainly, Indiana has had enough troubles of this kind to warn us to be careful of moving in this manner. Some States in the Union are utterly broken down, lost to the attributes that constitute a state, from this miserable grasping by parties for power that they are not legitimately entitled to by their ratio of constituency. Louisiana to-day is a scene of what the grasping for power that is not warranted by the votes of the people would result in. Whether Kellogg or Warmoth is right is no question, but the result shows they are both villians, aiming to grasp that which does not belong to them. If this thing is to be carried on in this State and the State is to be divided so as to bring power into the hands of those that may be in the minority we can not tell what may come, because it is in direct violation of the principles on which our government is founded, and no one knows it better than the gentlemen in the majority do. These were some of the reasons why he could not vote for the engrossment of this bill, especially as he saw a disposition on the part of the majority not to legislate for the good of the State, and it could not be expected under the circumstances that the minority would do servile work for the majority, and then be trampled upon by them. He voted "no."

The vote was then announced as above recorded, so the bill was ordered to be engrossed.

Mr. GLESSNER moved, that when the Senate adjourn it adjourn until 2 o'clock next Monday afternoon. The motion was rejected—yeas, 15; nays, 21.

On motion of Mr. FRIEDLEY, of Lawrence, the Senate then took a recess until 2 o'clock.

AFTERNOON SESSION.

The Senate met at 2 o'clock.

Mr. DITTEMORE moved a call of the Senate.

The roll was called and twenty members answered to their names.

Mr. GOODING moved that the doorkeeper be dispatched for absent members.

Mr. DITTEMORE moved to adjourn. He said, to relieve the minds of Senators from any apprehensions they might have, he was authorized to say that the Democratic members would be here next Monday afternoon; but he thought it would be impossible to secure the attendance of a quorum this afternoon. He therefore assisted on his motion to adjourn.

The motion was rejected.

Mr. DITTEMORE then made an ineffectual motion that Mr. Gooding's motion be laid on the table. Mr. Gooding's motion was agreed to.

Mr. DITTEMORE made an ineffectual motion to adjourn.

Mr. SLEETH suggested that if the Democratic members would come in and made a quorum the Senate could then go on and transact routine business involving questions of no political character.

Mr. DITTEMORE said he didn't want it understood that he was here representing a party of factionists. His motions were made simply because there was not a respectable number of members present, and he did not think it would be decorous or proper to do any business with so small a minority.

Mr. GOODING said it came with a very bad grace from the gentleman on the other side of the House to refer to the vacant seats in the chamber. Having failed in the effort to have the Senate adjourn until Monday, they now sought, in utter disregard of the wishes of the majority of this body, to effect an adjournment by withdrawing themselves. He thought it would look better in the eyes of the people of the State of Indiana if they would come back and occupy their seats until they could get an adjournment in the usual way.

Mr. BIRD said if there had been any concert of action among the members of the party to which he belonged he was not aware of it. For one, he was the last man that would get out of his seat and go out of the House to prevent legislation.

When the roll-call showed thirty-four Senators present and answering to their names—

On motion, further proceedings under the call of the Senate were dispensed with.

RELIEF FROM RAILROAD TAXES.

Mr. SLEETH moved that the rules be suspended and the bill [S. 59] to relieve counties and townships upon which a railroad tax has been levied, under the act of 1869, from collection of the same until an amount of work has been done by the road equal to the amount of taxes levied, be taken up.

The motion was agreed to by yeas. 23, nays, 12.

Mr. CARNAHAN thought the bill was defective in that it did not provide for the return of taxes already collected until the work was done by the railroad. He said in Posey county they had collected more than $100,000, which was tied up in a bank at Mt. Vernon. He favored the passage of some measure of the kind, but believed that there is a house bill on the files, embodying better provisions: would prefer to see the house bill passed, probably with some amendments; and he moved to lay this one on the table. He withdrew the motion for

Mr. BROWN, who explained the difference between the two bills. The bill under consideration simply provides that no levy shall be made to place a lieu upon property until the road shall be permanently located.

Mr. SLEETH said a bill had passed the other House providing for the refunding of taxes in such cases, which in no way interfered with the provisions of this bill, an which should be passed independently.

The yeas and nays being demanded, ordered and taken, Mr. Carnahan's motion was rejected by yeas 13, nays 26.

Mr. GLESSNER moved that the bill be recommitted to the Committee on the Judiciary, and demanded the yeas and nays.

The motion being made before the chair had finished stating the question, it was ruled out of order.

Mr. BROWN demanded the previous question, which being ordered the bill passed yeas 26, nays 11 as follows:

YEAS—Messrs. Beardsley, Beeson, Bird, Bowman, Brown, Bunyan, Chapman, Collett, Dagey, Dwiggins, Friedley of Scott, Gooding, Haworth, Hough, Howard, Hubbard, Miller, Neff, O'Brien, Oliver, Scott, Sleeth, Taylor, Thompson, Wadge and Mr. President—26.

NAYS—Messrs. Armstrong, Carnahan, Cave, Glessner, Gregg, Harney, Sarnighausen, Slater, Smith, Stroud, and Williams—11.

Pending the roll-call—

Mr. CARNAHAN, in explanation said as far as he had examined the bill he was in favor of it, but as the matter now stands he should vote "no."

Mr. HARNEY, when his name was called, said that inasmuch as he had not examined this bill very well [laughter] and not in a condition to give it that critical examination he should, he would vote "no."

Mr. SCOTT, in explanation, thought this bill calculated to relieve what has amounted to a great inconvenience to many counties in this State, and although he didn't like it should vote for it because he thought it more favorable to the people than to the railroads.

Mr. SLATER, when his name was called, said he liked the provisions of this bill, but as he would be found in bad company he would not vote for it.

Mr. THOMPSON, in explanation, said he would vote against anything that will prevent men making promises that they never mean to fulfill, but as there is a provision in this bill that where a tax is levied it shall not be collected until the road is actually located, he would vote "aye."

The vote was then announced as above recorded.

So the bill passed the Senate.

VOLUNTARY ASSOCIATIONS.

Mr. THOMPSON moved that the bill [S. 40] be taken up and read the second time.

The motion was agreed to—yeas, 26; nays, 11.

Accordingly the bill [S. 40], to amend section two of the voluntary association act of February 12, 1855, was read the second time.

Mr. THOMPSON moved to dispense with the Constitutional restriction, that the bill may be read the third time now.

The motion was rejected.

CRIMINAL PROCEDURE.

Mr. BROWN moved that the order of business be suspended for the purpose of reading the bill [H. R. 137] the first and second time only, that it may be referred. (The bill provides that in criminal prosecutions the Prosecuting Attorney shall have the open and close of the case.)

The motion was agreed to—yeas, 23; nays, 11.

The bill [H. R. 137] to amend section 103 of the criminal practice act of June 17, 1852, was read the second time.

Mr. BROWN said this was a very important measure, which had been largely discussed by the papers, and especially the Democratic papers, and was very dear to the Democratic heart. In order to quiet the nerves of his Democratic brethren he would now move that the rule be suspended and the bill be put upon its passage.

Mr. GLESSNER moved that the motion be laid on the table, and demanded the yeas and nays thereon. The vote stood: Yeas, 14; nays, 22.

So the motion was rejected.

Mr. HARNEY moved to adjourn, and the yeas and nays being demanded, ordered and taken, resulted—yeas, 13; nays, 24.

Mr. BROWN demanded the previous question on the motion to suspend the rule.

Mr. GLESSNER and others demanding the yeas and nays, the vote resulted—yeas yeas, 23; nays 14.

So the rule was not suspended.

Mr. BROWN moved that the bill be recommitted to the Juciciary Committee.

The motion was agreed to.

Mr. GOODING moved to suspend the order of business in order to permit him to introduce a short bill. The yeas and nays were demanded, and the vote resulted—yeas, 25; nays, 9.

So the motion was agreed to.

Mr. GOODING then introduced a bill [S. 160] to amend the act incorporating the Lawrenceburg Insurance Company, which was read the first time and passed to the second reading.

The order of business being again suspended, on motion by Mr. DWIGGINS by yeas 21, nays 14—taken on the demand by Messrs. Gregg and Glessner—the bill [S. 49] to amend section 22 of the town incorporation act of June 11, 1852, was read the second time

Mr. —— moved that the Senate adjourn.

Messrs. DITTEMORE, CAVE, GREGG and two other Senators demanding the yeas and nays, they were ordered, and being taken, resulted—yeas 16, nays 20.

So the Senate refused to adjourn.

Mr. ARMSTRONG moved to suspend the order, so as to take up the bill [S. 150] to legalize taxes levied by School Trustees without authority. The motion was agreed to; the bill was read by title only, and referred to the appropriate committee.

On motion of Mr. FRIEDLEY, of Scott, the Twenty-ninth Judicial Circuit bill [H. R. 72] was read by title, and referred to the Committee on Organization of Courts.

Mr. GREGG for the Senator from Jefferson (Mr. Francisco), presented a remonstrance from the bar of that county against re-establishing the criminal court.

It was referred with the bill.

And then the Senate adjourned till Monday morning, 10 o'clock.

THE

BREVIER LEGISLATIVE REPORTS.

THIRTEENTH VOLUME.

INDIANA LEGISLATURE.

HOUSE OF REPRESENTATIVES.

SATURDAY, December 14, 1872.

The House was called to order at 9 a. m. by the SPEAKER, and prayer was offered by Rev. H. R. Naylor, pastor of Meridian street M. E. Church.

REPORTS FROM COMMITTEES.

Mr. SATTERWHITE, from the Committee on Banks, returned Mr. Givan's bill [H. R. 60] to provide for the assessment and collection of taxes on the capital stock and shares of stock in all banks and associations doing banking business in the State, etc., reporting that the matter of the bill is embraced in a bill that has already passed the house, (the bill to provide for the uniform assessment and collection of taxes reported from the Committee on Ways and Means,) and therefore he recommended its indefinite postponement.

Mr. GIVAN hoped the report would not be concurred in. The general tax law made no provision for the manner in which national banks should be taxed. The law was merely silent upon the subject, and only permitted them to be taxed.

The report of the Committee was not concurred in, and the bill ordered to the engrossment.

Mr. HEDRICK, from the Committee on Rights and Privileges, reported back Mr. Barrett's bill [H. R. 82] to repeal the fish protection law, with the recommendation that it be indefinitely postponed.

The SPEAKER. That matter has already been once indefinitely postponed.

On a motion of Mr. RICHARDSON, the report was laid on the table.

Mr. HEDRICK returned Mr. Gifford's bill [H. R. 227], providing for the payment to Township Trustees of all moneys collected for general or special purposes, except such as are collected for State and county revenue, with an amendment, adding to the title these words: "and declaring an emergency."

The SPEAKER. You can't amend the title till after the bill has passed. Send the papers back for correction of the report.

Mr. HEDRICK immediately returned the bill by the messenger with his report corrected by the erasure of the titular amendment, leaving in the report simply the recommendation for the passage of the bill.

The report was concurred in and the bill ordered to the engrossment.

Mr. OGDEN, from the Committee on Corporations, returned the bill [S. 3], to amend section 4 of the act concerning the organization and perpetuity of voluntary associations, and repealing the acts of 1855 and February 12, 1867, recommending passage. It was passed to the third reading.

Mr. GIFFORD, from the Committee on Cities and Towns, returned Mr. Peed's bill [H. R. 185] to legalize the acts of the Board of Trustees of the town of Huntersburg, in Dubois county, and all other towns of the State similarly situated in regard to the legality of assessments for school and other purposes, with a recommendation that it pass. It was ordered to be engrossed.

THE CARROLL COUNTX CASE—JOSEPH A. SIMS

Mr. RICHARDSON, from the special committee on that subject, reported the following:

The committee to whom was referred the investigation of the disposition of certain moneys alleged to have been collected upon judgments obtained in the Carroll Circuit Court on the relation of John D. Evans, Auditor of State, against Joseph Evans, and William Dumble, executors of Samuel Gaines, late of Carroll county, Indiana, begs leave to report: That Joseph A. Sims came in person and upon his oath testified that he had been employed upon a written contract with T. B. McCarty, Auditor of State, G. W. Hoss, Superintendent of Public Instruction, together with Barnabas Hobbs, also Superintendent of Public Instruction of the State of Indiana; and that as such attorney he instituted the suit above named, prosecuted the same to judgments amounting to $11,199, and collected the same—paying into the Treasury $700, retaining the remainder $10,399, for his services as attorney in the above suits, and which he claims in accordance with the provisions of the contract aforesaid. And we further state that the records of the court in Carroll county, together with the statements of other witnesses, and the receipts given by Joseph A. Sims to William Dumble upon the receipt of the money, all corroborate the statement of Joseph A. Sims.

Your committee being of the opinion that the validity of the contract upon which said money was obtained, as well also as whether the officers of State transcended their powers in entering into the contract with Sims, are questions to be determined by legal tribunals only; therefore, your committee would present herewith a record of the evidence, together with a copy of the contract aforesaid, and recommend the adoption of the accompanying resolution on the part of the House of Representatives—requesting for themselves to be discharged, etc.

Resolved, That the Attorney General of the State be, and he is hereby, requested to make all necessary investigations as to the legality of the disposition of the money collected upon the judgments obtained in the Carroll County Common Pleas Court on the relation of John D. Evans vs. Joseph Evans and William Dumble, executioners of Samuel Grimes, late of Carroll county, deceased; and if in his opinion the money retained by Joseph A. Sims can be recovered, or any considerable portion of it, either from Sims or from the parties in contract with said Sims for the collection of said money, that the said Attorney General, by and with the advice and consent of the Superintendent of Public Instruction, Secretary of the State and the Governor, shall institute suit for the recovery of the same. The report was concurred in and the resolution adopted.

Mr. KING, in behalf of the Committee on Railroads, returned Mr. Isenhower's bill [H. R. 117] supplemental to the act of May 12, 1869, to authorize aid in the construction of railroads by counties and townships taking stock therein, etc., recommending that it be laid on the table, and that the following be substituted therefor, viz.: A bill [H. R. 235] supplemental to the act to authorize aid in the construction of railroads, etc., approved May 12, 1869: which was read the first time.

Mr. THOMPSON, of Elkhart, suggested that the bill be laid aside for the consideration of the similar bill from the Senate—the bill [S. 25] which is now on the third reading.

On motion of Mr. PEED, the substitute bill [H. R. 235] was laid on the table.

COUNTY RAILROAD AID STOCK.

The bill [S. 25] to refund money raised by taxation for railroads to the tax payers, to require railroad companies to issue certificates of stock to the counties and townships for such aid, and to issue certificates for unclaimed stock subscribed and paid under the provisions of act of May 12, 1869, was then taken up and read the third time. (The unclaimed stock to go to the local school fund—such certificates to be issued to the townships in proportion to their number of school children from 6 to 21 years.)

Mr. SHIRLEY submitted an amendment to the seventh section, inserting a clause to this effect: "The stock so issued being involuntary, no personal liability shall follow to the holders thereof for any debt contracted by the said railroad companies."

Mr. PEED. There is no occasion for the amendment. This act compels no party to take these certificates. Where there is danger let the parties refuse to take it.

Mr. LENFESTY had been opposing this bill till this amendment was offered. It is very important. Gentlemen know, that when a railroad has contracted for labor, every stockholder becomes liable for that labor after the assets of the railroad have been expended. By accepting these certificates every farmer in the country may become a stockholder, and if a stockholder is liable for the debts of the road, he becomes liable to the workmen thereon to the extent of all he possesses. Now, this amendment provides against that liability.

The amendment was adopted.

On motion of Mr. PEED, the bill was considered as engrossed and the bill, as amended, was read the third time and finally passed the House of Representatives.

On motion of Mr. THOMPSON, of Elkhart, the matter just laid on the table, viz.: the committee bill [H. R. 235] supplemental to the act to authorize counties and townships to aid in the construction of railroads, etc., approved may 12, 1869, was taken up and (there being had a suspension of the constitutional restriction,) the bill was carried through the readings and passed the House of Representatives—yeas, 70; nays, 0.

[This bill provides that in cases where money has been collected by tax for county or township aid to railroads, and has remained in the treasury unclaimed for two years, it shall be redistributed to the tax-

...ers, in the proportion in which it was ...ected—provided that the County Com...ioners or Township Trustees may de...mine to cover the same into the general ...d of the county or township, as the ...e may be, in which case the tax-payers ...m whom the money was collected shall ...ve credit for such amounts as are paid ...them in the collection of future taxes.]

CLAIMS.

Messrs. Riggs, Lenfesty, Hedrick and ..., from the Committee on Claims, ...verally reported for allowance of claims, ...wit: The claim of James N. Kimball ...$250, on account of legal services; the ...m of Henry Colman, for $15; the claim ...the Sunday Post publishers, for $780 95; ...e claim of E. B. Beauchamp, for 108—re...ced to $81; the claim of C. W. Wright..., for $40; the claim of W. P. & E. P. ...ip, for $112; the claim of the Jefferson ...road Company, $65 55, which claims, ...recommended, were severally allowed, ...d referred to the Committee on Ways ...d Means, with instructions that they be ...corporated into the specific appropria...n bill.

Mr. COBB returned the claim of Barber ...d Jacobs for $2,800 for legal services, ...commending that it be allowed and in...rporated into the specific bill; but objec...n being made, it was referred to the ...mmittee on the Judiciary.

Mr. OFFUTT submitted a motion to re...nsider the vote on which the House ...opted the report of the Committee on ...aims reducing the claim of Jonathan W. ...erson, to $250, desiring to recommit the ...port so that Mr. Gordon can be heard be...re the committee.

The report was withdrawn by unani...ous consent.

Mr. HELLER submitted a resolution ...t the Senate be requested to take up ...e Wilson of Ripley's per diem and ...leage bill, and finally dispose of the ...me.

The SPEAKER. It is against the rules ...n't be entertained.

Mr. OFFUTT moved to reconsider the ...e by which Mr. Edwards of Lawrence's ...ll [H. R. 95] repealing the act authoriz...g counties and townships to vote aid for ...ilroads, was made the special order for ...ednesday.

The motion was agreed to.

And then, on the motion of Mr. KING, ...t was made the special order for Monday ...ternoon.

Mr. COBB moved that when the House ...journs it will be till two o'clock Monday ...x.

It was agreed to.

The SPEAKER took up the call of the counties and districts for—

NEW PROPOSITIONS.

Mr. HELLER introduced a bill [H. R. 236] to provide for the taking of the sense of the qualified voters for the call of a convention to alter or amend the Constitution of the State (at the general election of 1874).

It was referred to the Committee on County and Township Business.

Mr. WESNER introduced a bill [H. R. 237] to amend section 19 of the act of 1854, prescribing the powers and duties of Justices of the Peace (proposing to authorize Justices of the Peace to imprison for non-payment of fines).

It was referred to the Committee on the Judiciary.

Mr. WESNER introduced a bill [H. R. 238] to amend section 19 of the act of May 12, 1862, regulating descents and the apportionment of estates (if the assets of the deceased husband do not exceed $1,000 it shall go without administration, etc.).

It was referred to the Committee on the Judiciary.

Mr. MARTIN introduced a bill [H. R. 239] to prevent the establishment of slaughter houses, etc., by which running water is made impure or corrupt within the distance of four miles.

It was referred to the Committee on the Judiciary.

Mr. MILLER submitted a resolution, which was adopted, that the Committee on Railroads be requested to inquire and report what legislation is necessary to protect property from fire communicated by sparks from locomotives.

Mr. ELLSWORTH presented a temperance petition.

Mr. SHUTT presented a claim, and (under the rules) they were referred without reading.

Mr. CLARK presented the petition of sundry voters and citizens for a stringent temperance law.

Mr. OFFUT submitted a resolution directing the principal clerk, doorkeeper and chairmen of the various committees of the House to report the number of employes under them, together with a statement of their duties and the necessity of their continued employment—the report to be made at 2 p. m. Monday. It was adopted.

Mr. COBB submitted a resolution authorizing members to retain the statutes held by them during the coming regular session. It was adopted.

Mr. WOOLLEN moved to reconsider the vote by which his County Bonds bill No. 10 was referred, with instructions, to the

Committee on Education, so that the instructions might be amended by changing the "two-thirds" to a "majority of the free holders."

The SPEAKER. Write out your instructions and give them to the Committee on Education.

Mr. WOOLLEN. I will do so by the consent of the House.

JUDICIAL APPORTIONMENT.

Mr. WOOLLEN. I move to take from the table the resolution to provide for raising a committee to inquire into the matter of re-circuiting and re-districting the State for judicial purposes.

The resolution was sought for, but not found, by the Clerk.

The SPEAKER. The resolution cannot be found, so the matter will be passed over for the present.

Mr. CLAYPOOL introduced a bill [H. R. 241] to give security to persons who contract with railroads and other incorporated companies for labor in grading, building, building embankments, making excavations, or bridge and trussel work. (It gives a lien on such works, on the materials furnished and on the interest of the railroad company in the land on which the labor has been performed.)

It was referred to the Judiciary Committee.

Mr. WOOLLEN introduced a bill [H. R. 242] concerning promissory notes payable in banks. [All persons who place their names on the back of promissory notes in bank shall be deemed endorsers, and not otherwise.]

It was referred to the Committee on the Judiciary.

Mr. TROUTMAN submitted a preamble and resolution, reciting that the national banking system does not afford an adequate circulating medium, and that public propriety required legislation for remedy; and therefore requesting the Judiciary Committee to inquire what legislation is necessary to establish a banking system similar to the national banking system.

On motion of Mr. MILLER, it was laid on the table.

Mr. TEETER introduced a bill [H. R. 243] to repeal the act of February 26, 1857, to provide for the protection of wild game and define the time in which the same may be taken and killed, and to repeal the amendatory act of March 11, 1867.

It was referred to the Committee on Agriculture.

Mr. PEED introduced a bill [H. R. 244] to amend section 10 of the act of March, 6, 1865, to provide for a general system of common schools.

It was referred to the Committee on Education.

Mr. JOHNSON introduced a bill [H. R. 245] to provide for the paroling of prisoners who may be confined in the county jails for the non-payment of fines which may have been adjudged against them for any public offense against the penal laws of the State. (The Governor may grant leave of absence which shall be filed with the County Clerk, revokable at the pleasure of the Governor.)

It was referred to the Committee on the Judiciary.

Mr. JOHNSON, a bill [H. R. 246] concerning the granting of pardons by the Governor. (The Governor to grant pardons revokable at his pleasure.)

It was referred to the Committee on the Judiciary.

Mr. JOHNSON introduced a bill [H. R. 247] in relation to the selection of jurors in certain cases therein named. (No person shall be disqualified to act as a juror on trials for treason or murder on account of his opinions or scruples as to capital punishment.)

It was referred to the Committee on the Judiciary.

Mr. JOHNSON introduced a bill [H. R. 248] for the preservation of evidence in certain cases; providing for the appointment of official reporters in the Courts of this State and providing for their compensation. (The Judges of the Courts in a city of not less than 40,000 inhabitants may appoint, etc., estimate and make the allowance of compensation, etc.)

It was referred to the Committee on the Judiciary.

Mr. CAUTHORN introduced a bill [H. R. 249] to fix the salary of the Judges of the Supreme Court of Indiana. He intimated his desire to fill the blank with $4,000 for information.

Mr. KING suggested $5,000.

The SPEAKER suggested that the time for amendments is on the question for the second reading.

Mr. BRANHAM moved a suspension that the bill be read the second time now.

Mr. WALKER. This ought to go through with the other bills for the compensation of all the judges.

The rules and constitutional restrictions were dispensed with—yeas 60, nays 2—and the bill was read the second time by title.

Mr. CAUTHORN now moved to fill the blank with $4,000. Mr. SHIRLEY moved for $4,500. Mr. KING for $5,000. The

latter amendments were rejected, and Mr. Casthorn's was adopted.

Mr. THAYER submitted a motion that the bill be referred to the Committee on Fees and Salaries. I am in favor of this bill, but I am afraid we can't pass it singly —without the propositions for raising the salaries of other judges; and I think it is just as important that the Common Pleas and Circuit Judges should have reasonable remunerations.

The motion prevailed, and the bill was referred to the Committee on Fees and Salaries.

Mr. LENT introduced a bill [H. R. 250] to amend sections 1, 2, 3, 4, 8 and 18 of the act to authorize aid in the construction of railroads by counties and townships taking stock therein, approved May 12, 1869.

It was referred to the Committee on Railroads.

Mr. SCHMUCK introduced a bill [H. R. 251] to promote emigration to the State of Indiana. (The Governor and State officers to be a Board of Emigration.)

It was referred to the Committee on Statistics and Emigration.

Mr. WHITWORTH introduced a bill [H. R. 252] to amend the act in relation to change of highways.

It was referred to the Committee on Roads.

Mr. OGDEN introduced a bill [H. R. 253] to amend the act defining the powers and duties of Justices.

It was referred to the Judiciary Committee.

Mr. RIGGS introduced a bill [H. R. 254] to amend the act of 1852, to incorporate the Lawrenceburg Insurance Company. (To make it the Citizens' Insurance Company, and to remove its business to Evansville).

It was referred to the Committee on Insurance.

Mr. BAXTER presented a petition for a prohibitory liquor law, and another from the Society of Friends asking the abolition of capital punishment.

Mr. WALKER called up Bill 233, to divide the State into thirteen Congressional Districts, and it was referred to the Committee on Elections.

Mr. WILSON, of Ripley, asked that Bill 214, relating to descents and apportionments of estates be referred to the Committee on Organization of Courts.

It was so ordered by unanimous consent.

A message was received from the Senate announcing the passage of sundry bills.

Also, the passage of Mr. Woods' Sixteenth District Common Pleas Court bill [H. R 32] with an amendment—a clause for emergency for its immediate operation.

The Senate amendment was concurred in by unanimous consent.

The bill [S. 115] was taken up on first reading, but proceedings were interrupted by the reception of another message from the Senate, announcing the singing by the President of sundry bills, and submitting the same for the signature of the Speaker of the House of Representives.

At the conclusion of the reading of the message, Mr. Wilson, of Ripley, moved to adjourn.

The motion was agreed to, and according to previous order the House adjourned till Monday, two o'clock p. m.

THE

BREVIER LEGISLATIVE REPORTS

THIRTEENTH VOLUME.

INDIANA LEGISLATURE.

IN SENATE.

MONDAY, December 16, 1872.

The Senate met at 10 o'clock a. m., President George W. Friedley in the chair.

The Secretary's minutes of Saturday's proceedings were being read, when—

On motion by Mr. BROWN, the further reading thereof was dispensed with.

CIRCUIT COURT BILL.

Mr. BROWN moved to suspend the order of business to enable him to return, from the special committee thereon, the bill [S. 118] fixing the times of holding courts in the Second Judicial Circuit, with amendments. It effects the counties of Scott, Johnson, Lawrence, Washington, Harrison, Clark and Orange.

The motion was agreed to.

Mr. BROWN moved to further suspend the order of business, that the bill may be put on its passage now.

This motion was also agreed to.

Accordingly, the bill was read the third time.

Mr. BROWN apprehended that there was not a quorum present, and on his motion the bill was made the special order for 2 o'clock this afternoon.

SOLDIERS' AND SAILORS' HOME.

On motion by Mr. THOMPSON, the bill [S. 48] to amend sections 1, 7 and 8 of the act establishing the Soldiers' and Seamen's Home, approved May 11, 1867, and the act supplemental thereto, was read the second time, and ordered engrossed for a third reading on to-morrow.

STATE PRISONS.

On motion by Mr. WADGE, the order of business was further suspended, and the bill [S. 149] providing for the reorganization of the State prisons, was read by title, and 200 copies ordered printed.

STATIONERY.

On motion of Mr. RHODES, the rules were again suspended and the bill [S. 167] authorizing the purchase of stationary for the use of county officers of this State and for the Judges of Circuit, Common Pleas, Criminal and Superior Courts, was read the second time and referred to the Committee on County and Township Business.

RAILROAD TAXES.

Mr. HARNEY, by leave, introduced a bill [S. 161] for an act requiring the Board of County Commissioners to refund to tax payers taxes paid on assessments towards the construction of railroads which have or may hereafter fail.

The bill was read the first time and passed to the second reading.

RAILROAD AID.

On motion of Mr. BEARDSLEY, the rules were further suspended and the bill [H. R. 235] supplemental to the County and Township Railroad aid act of May 13, 1869, was read the first time and passed to the second reading.

Messrs. STEELE and SMITH demanded a call of the Senate, but the President counting from his place announced as

quorum present, whereupon Mr. Steele withdrew his demand for a call of the Senate.

RECORD EVIDENCE.

Mr. SCOTT, by leave, introduced a bill [S. 162] to repeal the act repealing section 11 of the act of May 6, 1869, concerning real property and the alienation thereof; and providing that every recorded instrument or the transcript thereof when so proved, may be read in evidence in courts. The bill was read the first time and passed to the second reading.

BIGHWAYS.

Mr. NEFF, by leave, introduced a bill [S. 163] for an act to amend section 7 of the supervisor of highways act of March 6, 1869. [A team shall receive credit for two days' labor.]

It was read the first time and passed to the second reading.

GRAIN ELEVATORS.

On motion by Mr. OLIVER, under a suspension of the rules, the bill [S. 151] to amend section 1 of the mining and manufacturing incorporations act of May 20, 1852, so as to provide for the incorporation of grain elevators, stock yards or transit companies, was read the second time.

On his motion the bill was made the special order for three o'clock p. m.

LEGISLATIVE APPORTIONMENT.

Mr. WILLIAMS, by leave introduced a bill [S. 164] for an act to fix the number of Senators and Representatives in the General Assembly of Indiana, and apportioning the State for Senatorial and Representative purposes.

It was read the first time.

This bill [S. 164] proposes to apportion the Senators and Representatives in the General Assembly among the several counties, as follows:

Senators—Posey and Gibson, 1; Vanderburg, 1; Warwick and Spencer, 1; Knox and Daviess, 1; Pike and Dubois, 1; Perry, Crawford and Orange, 1; Lawrence, Monroe and Martin, 1; Brown and Jackson, 1; Washington and Harrison, 1; Floyd and Clarke, 1; Scott and Jennings, 1, Jefferson, 1; Switzerland and Ripley, 1; Ohio and Dearborn, 1; Franklin and Fayette, 1; Wayne and Union, 1; Rush and Decatur, 1; Shelby and Bartholomew, 1; Johnson and Morgan, 1; Greene and Owen, 1; Clay and Sullivan, 1; Vigo, 1; Putnam and Hendricks, 1; Park, Vermillion and Fountain, 1; Montgomery, 1; Tippecanoe, 1; Clinton and Boone, 1; Hancock and Madison, 1; Henry, 1; Randolph, 1; Delaware and Jay, 1; Hamilton and Tipton, 1; Howard and Carroll, 1; Cass, 1; Pulaski, 1; Miami, Benton, Warren and Jasper, 1; Lake, Porter and Newton, 1; Laporte and Starke, 1; St. Joseph, Marshall and Fulton, 1; Elkhart, 1; Kosciusko and Whitley, 1; Wabash and Miami, 1; Grant and Blackford, 1; Huntington and Wells, 1; Allen, 1; Allen and Adams, 1; Noble and Lagrange, 1; De Kalb and Steuben, 1; Marion, 2.

Representatives—Posey, 1; Vanderburg, 2; Warrick 1; Gibson, 1; Pike and Dubois, 1; Daviess, 1; Martin, 1; Spencer, 1; Perry, 1 Crawford and Orange, 1; Washington, 1; Henry, 1; Floyd, 1; Clark, 1; Jefferson, Switzerland and Ohio, 1; Shelby, 1; Bartholomew, 1; Bartholomew and Shelby, 1; Dearborn, 1; Ripley, 1; Dearborn and Ripley, 1; Franklin, 1, Fayette and Union, 1; Rush, 1; Decatur, 1; Jennings and Scott, 1; Brown and Jackson, 1; Monroe, 1; Lawrence, 1; Greene, 1; Sullivan, 1; Vigo, 2; Clay, 1; Owen, 1; Putnam, 1; Hendricks, 1; Putnam and Hendricks, 1; Morgan, 1; Johnson, 1; Marion, 4; Hancock, 1; Henry, 1; Wayne, 2; Randolph, 1; Delaware, 1; Jay and Blackford, 1; Madison, 1; Hamilton, 1; Tipton, 1; Clinton, 1; Carroll, 1; Boone, 1; Boone and Clinton, 1; Parke, 1; Vermillion, 1; Montgomery, 1; Fountain, 1; Montgomery and Fountain, 1; Warren, 1; Tippecanoe, 2; Benton and White, 1; Cass, 1; Howard, 1; Miami, 1; Wabash, 1; Miami and Wabash, 1; Grant, 1; Wells, 1; Huntington, 1; Allen, 2; Adams, 1; Whitley 1; Kosciusko, 1; Fulton, 1; Noble, 1; De Kalb, 1; Steuben, 1; Lagrange, 1; Elkhart, 1; Marshall, 1; St. Joseph, 1; Laporte, 1; Laporte and Starke, 1; Jasper and Pulaski, 1; Newton and Lake, 1; Porter, 1; St. Joseph and Elkhart, 4; Kosciusko and Noble, 1; Knox and Sullivan, 1.

Mr. WILLIAMS moved that the rules be suspended and the bill read by title the second time, and be referred to a committee of one from each Congressional district.

Mr. BROWN said he hoped the motion would not prevail. He had received a letter this morning from a leading Democrat of Jackson county, saying that the Democrats of that county favored the bill introduced by the Republican party. The bill just introduced disfranchises Jackson county entirely, and he would not dare to go home to his Democratic constituents without entering his protest against it. He moved to lay the motion on the table.

Before the question was put, Mr. Williams withdrew his motion.

Mr. DITTEMORE demanded a call of the Senate and 36 members were found to be present.

POSTOFFICE AT EVANSVILLE.

Mr. GOODING moved to suspend the rules and take up the bill [S. 87].

The motion was agreed to, and the bill [S. 87] granting the consent of Indiana to the purchase by the United States of one or more pieces of land in Evansville, on which to erect a postoffice and other public buildings, was read the third time and passed—yeas, 35; nays, 0.

On motion of Mr. BOWMAN, the bill [S. 118] changing the terms of courts in the Second Judicial Circuit, was passed—yeas, 35; nays, 0.

BANKS.

On motion by Mr. STEELE, the bill [S. 2] to authorize and regulate the incorporation of banks of discount and deposit in the State of Indiana was read the third time.

The bill passed the Senate—yeas, 33; nays, 1.

TWELFTH CIRCUIT.

Mr. DWIGGINS moved to still further suspend the order of business that the court bill [H. R. 124] to fix the time of courts in the Twelfth Judicial Circuit—White, Newton, Jasper, Benton and Tippecanoe—may be read the second time.

The motion was agreed to, and the bill was read accordingly.

And then came the recess for dinner.

AFTERNOON SESSION.

The Senate met at 2 o'clock P. M.

Mr. BOONE, by leave, from the Committee on Education, returned the bill [S. 86] to amend section 1 of the city and town school building bond bill, approved March 11, 1867, with amendments, limiting the rate of interest on such bond to ten per cent. per annum.

On motion by Mr. RHODES his bill [S. 86], just reported from the Committee on Education, was read the second time. He moved for a dispensation of the constitutional restriction that the bill may be put upon its passage.

This motion was agreed to.

The bill was indefinitely postponed on the statement by Mr. FRIEDLEY that it was superseded by another bill.

JUDGES' SALARIES.

The President pro tem. announced the special order—being the bill [S. 9] fixing the salaries of the judges of this State.

On motion it was postponed till to-morrow at 2 o'clock.

Mr. THOMPSON moved for a suspension of the order of business that the voluntary association bill [S. 60] may be taken up.

The motion was agreed to, the bill was read the third time, and passed—yeas, 36; nays, 6.

EIGHT DOLLARS A DAY.

On motion of Mr. BROWN the bill [H. R. 73] fixing the per diem and mileage of members of the Legislature (eight dollars a day and five dollars for every 25 miles traveled), was read the third time.

Mr. NEFF desired to offer an amendment providing that members also furnish their own books, papers and other printed matter. He thought unless some of the leaks were stopped the present pay was enough. If members wanted to send daily papers to their constituents, they should pay for them. He was opposed to the franking privilege in Congress, and for the same reason, if members of the Assembly wanted to send papers home as electioneering documents, he thought they should bear the expense. With regard to books, he believed they ought to be returned by members at the end of the session.

Mr. DAGGY thought that it was contrary to the spirit of the Constitution that members should increase their pay during their term of service. But, outside of that, is it right that they do so? and on that proposition he was prepared to vote no. Senators were elected under an implied agreement that they should receive five dollars a day, and now, when they have the power, they propose to increase it to eight dollars per day. He thought it was wrong.

Mr. BROWN said he had about as intelligent and economical a constituency as any Senator and he did not believe there were twenty-five intelligent men in his county who did not approve this bill. But in any event, he believed that the bill was just and right, and should vote for it regardless of the consequences.

Mr. STEELE said it seemed to be conceded on all hands that the measure involved nothing wrong; the only question was one of policy. Even at $8 a day, the most of those who came here would do so at a pecuniary sacrifice. Five dollars a day considering the expense of living at the capital, is not a reasonable compensation. This being the case, he thought that the bill was not only not improper, but was doing but partial justice to members of the Assembly. He supposed that the Constitutional provision meant what it said, that the pay of members should not be increased during the session. For himself he was willing to take the responsibility of voting for the bill, and would go before his constituents on this question as he had on many others, and submit to their verdict.

Mr. ORR said the position which he should take was one to which he had been educated by the Republican party, that fees and salaries should be reduced to a fair compensation. He thought that because the compensation of members was fixed at $5 a day when they were elected, it would be improper for them, now that they were elected, to amend the law for their own benefit. He doubted whether in voting to increase the salaries of the Governor and the Judges, the Republican members were fulfilling their pledges to the people in the late campaign.

Mr. DITTEMORE thought that in acting on this question Senators should rise above political motives and do that which is right. It is well known that $5 a day is not enough to pay the ordinary expenses of a legislator at the capital. The

labors which Senators perform is not confined to the State chamber. The most of them are on important committees, and their labors often extend far into the night. Under all the circumstances he believed the bill was right, and should vote for it accordingly.

Mr. DAGGY said he had no personal interest in the matter, but he believed that an increase of compensation would reduce the quality of the General Assembly. Make it a paying office and there would be a scramble for the position, and the most unworthy men would be likely to succeed.

Mr. FRIEDLEY, of Lawrence, believed it would be a matter of simple justice to the members of the General Assembly to increase their compensation, not to $8, but to $10 per day. The members of Legislatures in the States all around us are receiving $10 per day, and are not the services of the members of this Assembly worth as much as theirs? The people of Indiana are intelligent and liberal, and will indorse every just appropriation. He apprehended there was not a Senator on the floor that was not losing money every day by means of his presence in this body. The Republican party has always been and is in favor of economy in the administration of affairs, State and National. But it is also a plank in its platform that "the laborer is worthy of his hire." The opposition to slavery was based on that plank. He did not believe that the people of Indiana wanted their representatives to serve them for an inadequate compensation.

Mr. DWIGGINS demanded the previous question.

The Senate seconded the demand, and under the operation of the previous question the bill prssed the Senate by yeas 28, nays 16, as follows:

YEAS—Messrs. Beeson, Bird, Bowman, Brown, Carnahan, Cave, Collett, Dittemore, Francisco, Glessner, Gooding, Hall, Harney, Hough, Howard, Hubbard, O'Brien, Oliver, Rhodes, Sarnighausen, Scott, Sleeth, Smith, Steele, Stroud, Taylor, Wadge, and Mr. President—28.

NAYS—Messrs. Beardsley, Boone, Bunyan, Chapman, Daggy, Dwiggins, Friedley, of Scott, Gregg, Haworth, Miller, Neff, Orr, Slater, Thompson, Williams, and Winterbotham—16.

LEGISLATIVE APPORTIONMENT.

Mr. DWIGGINS moved to suspend the order of business that the bill [S. 146] to apportion the State for Senatorial and Representative purposes may be read the third time.

This was followed by motions to lay upon the table, calls of the Senate, the previous question, etc., accompanied by a running debate.

Mr. WILLIAMS moved ineffectually to lay the motion on the table—yeas 19, nays 23.

Mr. DWIGGINS moved the previous question.

The motion was carried by the following vote:

YEAS—Messrs. Beardsley, Beeson, Brown, Bunyan, Chapman, Collett, Daggy, Dwiggins, Gooding, Haworth, Hough, Howard, Hubbard, Miller, Neff, Oliver, Orr, Rhodes, Scott, Sleeth, Steele, Taylor, Thompson, Wadge, and Mr. President—25.

NAYS—Messrs. Bird, Boone, Bowman, Carnahan, Cave, Dittemore, Francisco, Glessner, Gregg, Hall, Harney, O'Brien, Sarnighausen, Slater, Smith, Stroud, Williams, and Winterbotham—18.

Pending the roll call—

Mr. O'BRIEN, when his name was called remarked that he didn't like the situation. He was compelled to vote against the bill in all its features as it now stands. It takes the Senatorial district which he represented and gives it a voting population of something over 11,000, when 7,000 and a few odd hundred are all that have been necessary. He claimed to represent the banner Republican county of the State, and that county is about one-half disfranchised by this bill and he could not vote for it. They take Clinton county off of the district of Boone and put it on his district. Without that county the districts were very nearly equal in size and population. How gentlemen could conceive that it was necessary to take Clinton county and add it to the district composed of Hamilton and Tipton, and then give Boone a Senator alone, he could not see. He did not believe the bill was constitutional, or equitable or just, and he could not vote for it. He never voted with the Democratic party before in his life, and was ashamed that he had to do it now. But if he found the Democratic party right and the Republican party wrong, he was the man to stand up here and vote with the Democrats from now until Doomsday. [Applause.]

Mr. OLIVER, in explanation of his vote said there were things about this bill he did not like; however, under the circumstances he supposed it to be as good a bill as can be gotten up. He should vote for it under protest.

Mr. THOMPSON, when his name was called, said he had not been able to examine the bill, but he knew the men who got it up, and knowing the veracity and honesty of the Senators from Jasper [Mr Dwiggins] and Scott, [Mr. Friedley] he should vote for the bill.

Mr. WINTERBOTHAM, when his name was called, said that he represented the counties of Laporte and Stark, and those

two counties have a joint representation. The county of Stark casts about 800 votes, and this bill takes Stark county and attaches it to St. Joseph, with 6,000 voters, when the counties are only joined by part of a township. Is it just to take the county of Stark and attach it to the county of St. Joseph, when they are only joined by part of a township, and leave Marshall county with 4,000 on the east of Stark, when St. Joseph has 6,000? Is this just, is this proper? Mr. President, I have to vote no.

The bill then passed by yeas, 26; nays, 18.

YEAS—Messrs. Beardsley, Beeson, Brown, Bunyan, Chapman, Collett, Daggy, Dwiggins, Friedley, of Scott, Gooding, Haworth, Hough, Howard, Hubbard, Miller, Neff, Oliver, Orr, Rhodes, Scott, Sleeth, Steele, Taylor, Thompson, Wadge, Mr. President—26.

NAYS—Messrs. Bird, Boone, Bowman, Carnahan, Cave, Dittemore, Francisco, Glessner, Gregg, Hall, Harney, O'Brien, Sarnighausen, Slater, Smith, Stroud, Williams, Winterbotham—18.

Pending the roll call—

Mr. BIRD, in explanation of his vote, said that the bill is a very unfair one, for it takes from the county of Allen one member and gives it to another county, which is not entitled to it. Allen county, with 10,300 votes, only gets one Senator and two Representatives, while the county of Marion, having but 15,000, gets two Senators, four Representatives and one with Shelby, and it certainly is not twice as large as the county of Allen. There is some unfairness in this bill, and he should be obliged under the circumstances to vote "no."

Mr. BOONE, when his name was called in explanation of his vote, said that in his judgment it was unconstitutional, and in addition to that some of the districts do not seem to be composed of contiguous territory.

Mr. CAVE, in explanation of his vote, said the bill was very unjust, and he was not surprised. He was not surprised to see the action of the majority. Some of his Democratic friends had remarked that they were surprised, but he was not. He said they have resorted to everything that is unjust and unfair in the passage of this bill. They have applied the gag law and gag rule in every particular. Mr. President, it is unjust, it is unfair, and it is diabolical in its provisions in every particular. And, Mr. President, I must and am compelled to vote "no."

Mr. DITTEMORE, when his name was called, said he did not complain particularly on his own account, but when he saw dissensions among his Republican friends he could not but think there had been some "gouging" done. To enable his friend fromHamilton (Mr. O'Brien) to rectify some of the injustice that had been perpetrated, he would vote "no."

Mr. DWIGGINS, in explanation of his vote, said the Senator from Knox (Mr. Williams) objected particularly to the bill because the county of Randolph, with less than 5,000 population, less than Knox, had been given a Senator. But this morning the Senator from Knox introduced a bill in which Randolph was given a Senator precisely as in this bill. He, therefore, concluded that the Senator from Knox had become reconciled to the bill, and was ready to vote for it.

Mr. GLESSNER, when his name was called, said: As this is the first opportunity the Senators on this side of the house have had to give their opinion on this bill, I now ask a moment for the purpose of explaining my vote. This bill, if I remember right, was introduced on Thursday ar Friday, I am not sure which. It was on Friday. The first time in the history of this special session that knowledge came to Senators that a bill of this sort was to be introduced, was on Friday. That was on the first reading of the bill. On Saturday, on motion, I believe, of the Senator from Jasper, [Mr. Dwiggins,] the rules were suspended that the bill might be taken up and read the second time. When that motion was made, but little resistance was offered to it. Up to this time, however, Senators had no opportunity to learn what the bill contained, except by its second reading, and Senators will agree with me that it is very difficult and almost impossible for Senators to gather up the entire merits or demerits of a bill on its first reading. We thought it due to the minority on this floor, which is very respectabla in numbers—I believe the minority have twenty-three members on this floor, while the majority have but twenty-seven—as we had gone along up to that time, knowing the majority was responsible for the character and extent of legislation this session, and nothing has been thrown in the way of legitimate legislation; but we had given our will and vote up to that time.

Mr. BROWN (interposing). Does the Senator wish to make an argument or explain his vote?

Mr. GLESSNER. I desire to give the reason why I shall vote as I do. As I was about to say the majority know, and I presume will admit, that up to the time this bill was introduced on Friday we had thrown nothing in the way of fair and legitimate legislation. We had voted almost on all occasions to suspend the rule and the order of bus-

ness and the constitutional restriction for every Senator on the other side of the Chamber, although we had special measures we desired to get through. As I said we did nothing to obstruct the progress of business and were willing to aid the majority in the enactment of all measures we conceived to be right and proper, and aid them in doing a large amount of business at this special session, therefore, it was my judgment—I had formed such a favorable opinion that I expected when we made a reasonable request as to this bill, which is a vital one, and which is regarded as a political question, that they would permit us to at least print this bill and have it referred to a Committee for a short time, so that we would have an opportunity to bring in a minority report so that we could show its unfairness and inconsistencies. But that was denied us, and every proposition made by the minority was denied, and the bill was read the second time, and before the amendment could be offered, the Senator from Jasper moves to engross the bill and nothing else could be heard but a motion to engross the bill in order to put it, per adventure, beyond any amendment or criticism whatever. It indicated to me and for the first time I was suspicious that any measure at this special session was being put through under caucus rule, and moved by caucus despotism. Then I discovered that this bill was to be put through without any amendment. It comes up to-day, introduced last Friday, read the second time on Saturday, and now against every proposition made by the minority to refer it to a committee, to amend it, to print it or to consider any of its demerits, we are forced now, under the operations of the previous question to vote against the bill that disfranchises a large proportion of the citizens of Indiana.

In my judgment this bill is unconstitutional and will so be held by the courts; and I feel as I sit in my place, remaining there for the purpose of discharging my duties to the best of my ability, and opposed to the principle of resignation or bolting, that I have the consolation that at an early day after this bill shall have passed, its constitutionality will be presented to and determined by the proper tribunals of the State, and by them held unconstitutional as it should be.

[Mr. G. was here interrupted, and the point of Order made that he was not in the line of explanation, but the President said: "I take it that the Senator is making the argument on that side and I will hear it."]

The constitutional provision that this law shall be passed, was to equally apportion the legal votes of the State of Indiana, and I call the attention of Senators respectfully to the fact that the present apportionment law, which was made several years ago, was so formed that we would have to carry the State by over 3,000 majority in order to have a majority in the Legislature on joint ballot, and to-day I call attention to the fact, that while you carried the State in some respects, by a few votes, less than 200, and on the general vote not to exceed 2,000, you have thirteen or fourteen majority in the General Assembly on joint ballot. I ask you in God's name if the present apportionment ain't sufficiently fair and reasonable to you, without asking us to aid you in so apportioning the State that we might carry the State by ten thousand, and yet you have a majority on joint ballots in the General Assembly. Therefore, I say, the inequality of this apportionment law is obnoxious to the Constitution and ought to be to every fair man in this Senate.

Why is it, I ask Senators, do they desire to so apportion the State that it will be impossible, almost, in the future, if this bill stands legal investigation, for a majority of voters, if they happen to be against you, to have a majority in the General Assembly? I was willing to concede to you, and so were all my political friends, what you are entitled to—what political parties usually claim, and it is due to you—that by this apportionment to arrange it so as to have a reasonable majority on joint ballot if you carried the State at all. As it is we may, under the present apportionment, carry the State and yet not have a majority in the General Assembly. Therefore, I thought the present law was sufficiently unfair three years ago, yet this is infinitely worse, and it is odious to us, and it ought to be odious to any fair minded or reasonable man on the other side of the chamber. It gives to Marion county—

The PRESIDENT pro tem. (interrupting). I beg leave to say to the Senator that I have already listened to him as long as the rules of propriety will allow. I hope the Senator will confine his remarks to a proper explanation of his vote. We are operating under the previous question and some law and some order should be observed. I have allowed him to wander outside of what is proper, and I trust he will confine himself to a proper explanation of his vote.

Mr. GLESSNER. I had no object but to give what I honestly and consciously beleive to be my reasons for voting against

this bill. I did it believing it to be a duty. I had no object in delaying the final vote upon this bill. It is now to be voted upon. If I have resorted in the past to parliamentary delay for the purpose of defeating this class of legislation, I am not doing it now. I only intended to give what I believed was a fair statement of the present condition of the bill. We have had no opportunity to propose amendments or to discuss the bill on this side, not even an opportunity of bringing in a minority report. This, I say, has been unfair to us. I believe this bill is to be put through under a sort of despotism that the majority have decided upon outside of the Senate Chamber. I speak from experience of political parties.

I am sorry it is so; I am sorry you have not given us an opportunity; but you have done what perhaps you thought you had a right to do; at least perhaps you thought you were justified in doing so. But I don't think you are. I heard it remarked by some Republican Senator, either Friday or Saturday, that this was only a little measure of punishment for the majority two years ago, introducing an apportionment bill. That bill was not introduced in the last General Assembly under the direction of a caucus. My political friends know I was opposed to the introduction of an apportionment bill two years ago, and opposed to the bill then sought to be introduced. It may have been in one or two instances what may be considered by the majority of Senators as unfair to them. I know in many respects it was unfair to the Democratic party. If they will take that apportionment bill and compare it with this they will see that it is nothing at all to compare with this.

The PRESIDENT pro tem. (interposing) The Chair must remind the Senator from Shelby that an explanation of a vote does not involve the right to argue the merits of a bill. If he persists in this longer the Chair will direct the clerk to call his name and then proceed to call other Senators.

Mr. GLESSNER. I could not give an explanation of my vote without alluding incidentally to the character of the bill. It will be impossible for me, I beg pardon of the Chair, to give my reasons without indicating wherein the bill is obnoxious to my views. With one more word I am done. I desire the Senate if it passes this bill to take up the bill introduced by the Senator from Knox (Mr. Williams), the bill introduced two years ago, and see the difference in the measures. I want you to see the merits of the bill that caused the Republican members two years ago to resign their seats—the difference in the merits and fairness between the bill now being passed and the one introduced two years ago.

Mr. GREGG said he would have done anything in the world to defeat this bill. He respected, loved and honored his people and he hardly knew how to explain his vote, because he felt there was a crisis pending over Dearborn county. This proposes to disfrancise them. The people of the county, without distinction of party, had sent him word to do everything in his power to defeat this bill. More than that, the bill is unconstitutional. In this connection he referred to the fifth section of the fourth article of the Constitution. Mr. Gregg paid an eloquent and glowing tribute to the heroism, bravery, intelligence and patriotism of the people of Dearborn county, and concluded as follows: "Pass the bill, then, Senators, if you will. Go home if you dare, to you constituents, and tell them that you, in behalf of your Republican districts, disfranchised Franklin and Dearborn counties—took from us our representation and applied it to yourselves. Tell your people you have done this sort of a thing, and I am willing for you to try it, for I believe, in conclusion, in the Scripture doctrine that the "wages of sin is death," and that it will result not in your favor, but against your party and your party causes."

Mr. HARNEY said he found on an examination of the bill, taking the vote of the 8th of October last as a basis, the other House would have 60 Republicans and the opponents 40, and in the Senate we can elect 18 Democrats against 32 Republicans. He found further that under this apportionment the Democratic party had 4,774 for each Reprefentative, and the Republicans 3,147. In other words, six of one party was equal to nine of the other. An analysis showed that the Democrats might carry the State by 15,000, and still be in a minority in the Legislature and could not elect a United States Senator. He suggested that he didn't think that was fair. Each Republican would represent 7,317 votes and each Democrat 7,853, leaving 696 unrepresented. He could not support a bill which worked such injustice.

Mr. SLATER thought the presentation of this bill was an argument against the efficacy of prayer. Several ministers had appeared before the Senate and all had prayed devoutly that the legislation of the Senators on this floor should be just, and he thought no more odious measure had ever been presented than this, which in-

dicated that the Lord had not heeded the prayers of His annointed.

Mr. STEELE, when his name was called, said: In explanation of my vote I want to say to the Senate that gentlemen on the other side are now complaining of us—even complaining that we are acting unjustly, when if gentlemen will remember two years ago nearly every important measure before the Senate that assumed a political aspect that same gag rule they speak of was applied and the mouth of every Senator on this floor was stopped. They would not even allow a bill that they thought was likely to make against their party to be even read before the Senate, but the gag rule was applied to the bill itself. I see men complaining about unconstitutional action who at that time were rising in their places and voting that a Senator who had been brought here after having been sworn into office was not indeed a Senator, and they were ready to stop the mouth of every Senator who would speak in behalf of that Senator. These are the gentlemen who are complaining of unconstitutional measures, and complaining at the same time that the gag rule has been adopted here. Great God Almighty!

Mr. HARNEY. May I be allowed to ask the gentleman a question?

The PRESIDENT pro tem. I cannot permit questions going back and forth. I say to the Senator from Grant (Mr. Steele) what I have said to other Senators during the explanations of their votes, to confine himself to giving the reasons for his vote.

Mr. STEELE. I will try. I was going to say, in explanation of my vote, that I do not think it comes with good grace from these familiar faces to say that I shall not apply the gag rule. I remember too well two years ago. I remember how I felt, and I remember of saying to gentlemen, that chickens came home to roost sometimes; and now they can determine whether that is really true.

They talk about being disfranchised and we find some of our own friends saying that they have not got as much as they should have. They complain that this bill does not give them as much as they desire. While Senators on the other side complain that they have not as much as they should have. Occupying a position between the two we are nearly right in this matter I expect. It is hard to so apportion the State that everybody will be satisfied. We can make one or two districts that will satisfy ourselves, but when we attempt to satisfy everybody we always fail as we have in this instance. Those same Senators who are here to-day declared that they never will on any occasion vote for a matter they regard as unconstitution, two years ago—

Mr. SLATER (interrupting.) I rise to a point of order. The gentleman should confine himself to an explanation of his vote..

The PRESIDENT, pro tem. The point of order is a good one. But other Senators have gone on, and I suppose the Senator will not occupy much more time.

Mr. STEELE (continuing.) It was convenient then for those men to apportion the State for representative purposes, two years before the time the Constitution provided, and yet there was no prating about the constitutionality of their proposed action then. I heard no complaint of that sort from that side of the House. Then, in short, I will close by saying, I think this is a tolerable fair bill. I did not expect to suit our opponents, indeed we are not all suited ourselves. I vote "aye."

Mr. WILLIAMS, when his name was called, said: If I can explain my vote without Senators getting irritated, I will do so. As I understand it, there is a right and a wrong way to make an apportionment. One is to take the census and apportion one Senator for every 7,600 white inhabitants. If that rule had been carried out I should not complain; but in comparing that bill with this ratio I find it applies to one side and not to the other. I have taken pains to examine this bill, and I see that districts likely to return Democrats require 7,990 for a Senator, and those districts that are sure to elect Republicans require but 7,352. For Reprrsentatives, I find that it requires in those counties that are Democratic, 4,566, while for Republican counties it requires but 3,390—a difference of 1,100 and upwards against the Democratic party. I find again, sir, that in 95 districts that portion of the State represented by Republicans, it makes them, have an average 2,265 for each Senator and Representative, while the Democrats having 55 require 3,888 for each district—a difference against the Democratic party of 623 in every case. This is too much. This is not all accidental. This could not have been so without design. I know they could have made a bill nearer equal.

It is said that two years ago there was a very iniquitous apportionment bill introduced here. The only point of objection I ever heard to that bill was that it disfranchised Lake and Porter counties. With a population of 6,237, according to the census taken for that purpose, they have just 737 more than they ought to have

for a Senator and one Representative, and 1,363 less than for a Senator and two Representatives. Now I leave gentlemen to say whether they ought to throw away the 1,300 or the 700. There is the whole bug-a-boo. I have taken some pains to note the discrepancies in the bill before the Senate. In Floyd and Scott, with 10,186 white males, I see they have one Senator and two Representatives. Miami and Howard has 8,458, and they get four Representatives. Brown and Bartholomew, with 6,515, get one Senator and one Representative. Fayette and Union, with 423, less than one-half, get a Senator and a Representative. In Laporte where they have 6,559, they get disfranchised by having a Senator and one Representative, but Lake and Porter mustn't be with some 300 less. It is all right to disfranchise Laporte, but wrong to disfranchise Lake and Porter. They are taking care of these small counties.

I could add, perhaps, a great many other reasons why this bill should not pass, but I will say here that the bill of two years ago was a fair bill, and no Senator dare to argue against it. I had hoped on Saturday to offer some amendments to this bill, or at least to have an opportunity to discuss it without being interrupted every few minutes or being declared out of order, but in that I was mistaken, although it was said that there was going to be a vote taken but time would be given for discussion, and I supposed they spoke from the book.

Then Marion county is given two Senators and four Representatives, and not content with that, they must gobble up the Senator from Shelby; not content with that they must have a joint representative with Shelby. Is that right? Does the history of our State present anything to compare with that? And can any Senator show me that there ever was a bill passed to apportion the State for Senatorial, Representative or Congressional purposes without being first sent to a committee, or without a fair and free discussion? Never have I known of such a thing but once, and that was some nine years ago. I know some Senators on the other side feel sore over the passage of this bill. These he likened to an old gentleman in the "pocket" who talked in favor of Democracy but always voted the Republican ticket, and when taken to task about it said: "I guess I talk right but I expect I vote wrong." There are Senators here this day that feel that way and I know it.

The vote was then announced as above recorded.

So the bill passed the Senate.

Mr. FRIEDLEY of Lawrence moved to reconsider the vote by which the bill passed, and to lay that motion on the table.

The latter motion was agreed to.

CONGRESSIONAL APPORTIONMENT.

On motion of Mr. GOODING, the bill [S. 54] to divide the State into Congressional Districts was read the third time and passed—yeas 27, nays 12—as follows:

YEAS—Messrs. Beardsley, Beeson, Brown, Burgess, Chapman, Collett, Daggy, Dwiggins, Friedley, Gooding, Haworth, Hough, Howard, Hubbard, Miller, Neff, O'Brien, Oliver, Orr, Rhodes, Smith, Steele, Taylor, Thompson, Wadge and the President—27.

NAYS—Messrs. Bird, Boone, Bowman, Francisco, Glessner, Gregg, Hall, Sarnighausen, Slater, Small, Stroud and Winterbotham—12.

Mr. FRIEDLEY of Lawrence moved to reconsider the vote just taken, and to lay that motion on the table.

The latter motion was agreed to—yeas 26, nays 13.

The apportionment under the bill is as follows:

First District—Posey, Vanderburg, Warrick, Spencer, Gibson and Pike.

Second District—Sullivan, Knox, Daviess, Greene, Martin, Orange, Crawford and Dubois.

Third District—Harrison, Clark, Floyd, Washington, Jackson, Brown and Bartholomew.

Fourth District—Ohio, Switzerland, Jefferson, Scott, Jennings, Ripley, Decatur and Rush.

Fifth District—Dearborn, Franklin, Fayette, Union, Wayne and Randolph.

Sixth District—Johnson, Shelby, Hancock, Henry, Delaware, Madison and Grant.

Seventh District—Marion, Morgan, Hendricks and Putnam.

Eighth District—Lawrence, Munroe, Owen, Clay, Vigo, Parke and Vermillion.

Ninth District—Boone, Clinton, Montgomery, Fountain, Warren, and Tippecanoe.

Tenth District—Laporte, St. Joseph, Starke, Porter, Lake, Newton, Benton, White, Carroll, Jasper and Pulaski.

Eleventh District—Hamilton, Howard, Tipton, Cass, Miami, Fulton and Wabash.

Twelfth District—Jay, Blackford, Wells, Adams, Huntington, Whitley, and Allen.

Thirteenth District—Kosciusko, Marshall, Elkhart, Lagrange, Noble, Steuben and DeKalb.

BREVIER LEGISLATIVE REPORTS.

Mr. NEFF, from the Committee on Claims, returned the resolution on the subject of the Brevier Legislative Reports, with a recommendation that it do pass with an amendment, adding these words: "with interest on one-half the gross amount due on account of last session;" so that the resolution shall read as follows:

RESOLVED, That the Auditor of State be, and he is hereby directed to issue his warrant on the State Treasurer in favor of A. E. & W. H. Draper for the same number of copies of the BREVIER LEGISLATIVE REPORTS of the Forty-seventh General Assembly as have been de-

nted every session since 1857, the same price paid per page per copy for the last several volumes, to be paid out of the fund appropriated for Legislative purposes; and also at the same rate for the same number of copies of the current volume for the present session, with interest on one-half the gross amount due on account of last session.

The report was concurred in and the resolution was adopted.

Mr. FRIEDLEY, of Scott, presented several petitions concerning the reorganization of Courts in Johnson County.

They were referred to the Committee on the Organization of Courts.

And then the Senate adjourned till tomorrow at ten o'clock.

THE

BREVIER LEGISLATIVE REPORTS.

THIRTEENTH VOLUME.

INDIANA LEGISLATURE.

HOUSE OF REPRESENTATIVES.

MONDAY, December 16, 1872.

The House met at 2 o'clock P. M., pursuant to adjournment.

On motion of Mr. OFFUTT, the reading of the journal of Saturday was dispensed with.

The SPEAKER announced the consideration of the special order, viz: Mr. Edwards of Lawrence's bill [H. R. 96] to repeal the act to anthorize aid in the construction of railroads by county and townships taking stock therein, etc.

Mr. WALKER. I move to postpone the further consideration of this bill till the next regular session. I have no interest in it myself, nor has my colleague, or the people of my county, one way or another. I desire to have a little further light on the subject. I am not willing just now to vote in favor of the repeal of the law to authorize counties and townships to aid in the construction of railroads, while I am satisfied that it ought to be further guarded and restricted. I have had no talk with my people about it, and my colleague informs me that he has no advice from them. I know of know necessity for urging it. I can't see that delay will be hazardous to anybody. I would prefer to be sufficiently advised to vote intelligently on the subject.

Mr. BRANHAM hoped the motion would prevail, and was satisfied that the House is not in possession of the facts necessary to an intelligent action. It is a question of much more importance than it is likely will be given to it, and there is no special danger in delay.

Mr. KING moved to lay the motion to postpone on the table, but he was induced to withdraw the motion, for debate.

Messrs. Woodard, Crumpacker and Lenfesty merely concurred in the foregoing remarks.

Mr. BRANHAM demanded the yeas and nays, which were ordered and resulted —yeas, 64; nays, 18—as follows:

Yeas—Messrs. Anderson, Baker, Barrett, Barse, Blocher, Bowser, Branham, Broadus, Butterworth, Cauthorn, Clark, Claypool, Cline, Cobb, Cole, Cowgill, Crumpacker, Dial, Durham, Ellsworth, Glasgow, Glazebrook, Goble, Gronendyke, Hatch, Hedrick, Heller, Hollingsworth, Hoyer, Johnson, Jones, Kilpatrick, Lenfesty, Martin, McConnell, McKinney, Miller, North, Peed, Prentiss, Reeves, Reno, Richardson, Riggs, Rudder, Rumsey, Schmuck, Scott, Shaw, Spellman, Stanley, Tingley, Thompson, of Spencer, Troutman, Tulley, Walker, Wesner, Whitworth, Willard, Wilson, of Blackford, Wood, Woollen, Wynn—64.

Nays—Messrs. Billingsley, Coffman, Edwards, of Lawrence, Furnas, Givan, Gregory, Henderson, Kimball, King, Lent, Offutt, Ogden, Pfrimmer, Shirley, Teeter, Thayer, Thompson, of Elkhart, Mr. Speaker —18.

So the bill was postponed.

EMPLOYES OF GENERAL ASSEMBLY.

On motion of Mr. LENFESTY, the bill [S. 145] in relation to the organization of the two Houses of the General Assembly, prescribing the number of officers and employes of the two Houses of the General Assembly, and regulating their duties, was taken up and read.

Mr. WALKER moved to dispense with the constitutional restrictions, that it may be read the second and third times and put upon its passage.

The motion was agreed to, and the bill having been read the second time by title—

Mr. WALKER moved to amend by striking out that part which relates to the clerks of the standing committees of the Senate and House.

After debate by Messrs. BRANHAM, LINFESTY, HELLER and others, the amendment was adopted.

Mr. COLE proposed further to amend section 2 by striking out "four," and inserting "five" in lieu—relating to the number of copying clerks in the House.

It was adopted—affirmative 47, negative 26.

The question being on the final passage of the bill—

Mr. BUTTERWORTH considered the number of doorkeepers insufficient.

Mr. OFFUTT obtained unanimous consent to introduce into these proceedings, in an informal way, the reports from the Clerks, Doorkeeper and Chairmen of the Standing Committees, as to the number of their employes, as required by his resolution of Saturday.

The Assistant Clerk reported 7 assistants; the Doorkeeper, 21 employes; the Ways and Means Committee, 2 clerks and 1 janitor; the Judiciary Committee, 1 clerk and 1 janitor; the Committee on Education, 1 clerk, and the Committee on Claims, 1 clerk. There were also reported 10 assistants to the Principal Clerk.

The total number as reported was 44, and the SPEAKER announced the total number of the employes of the House to be 56, as indicated by the pay warrants, and the discrepancy was explained. This was explained by the facts that warrants have been drawn under resolutions of the House to pay the services about the organization, etc.

Mr. CAUTHORN moved to amend further by striking out from the bill sections 7, 8, 9, 10, 11, for the reason that these sections embrace precisely the matter of his bill [H. R. 119] which has passed both Houses—having just been returned from the Senate with clerical amendments of the title. His bill [H. R. 119] simply provides for the organization of the General Assembly and to that extent was precisely the same as the law of Ohio and Illinois. This bill which comes now from the Senate seems to make an exception in favor of the officers of this session of the General Assembly, to make it their duty to organize the next session. And if they come on and do the work they must be paid for it.

Mr. WILSON, of Ripley, said the provision that the President of the Senate and the Speaker of the House shall organize at the succeeding session could not involve expense, these officers being members of the General Assembly. He regarded this bill as a step in the right direction, and would avoid amendments that might not better it, and would certainly make delay.

Mr. MILLER. Instead of being a step in the right direction, it might prove to be overstepping it. As for the part proposed for the President of the Senate and the Speaker of the House of Representatives, he did not so much object to that, but as to clerks and police—a standing provision could hardly stand long. He would stand by the Cauthorn bill.

Mr. OFFUTT. The bill of the gentleman from Knox, provides simply for the organization, and this Senate bill comprehends that and provides for the running force of the General Assembly. There is no difficulty about re-enacting the same matter, because the last expression is the will of the General Assembly.

The amendment was adopted on a division—affirmative, 41; negative not reported.

Mr. KING proposed further to amend the bill by increasing the number of engrossing clerks for the principal clerk of the House from three to four.

Mr. CAUTHORN made an ineffectual motion to lay it on the table, and the amendment was finally adopted—yeas, 43; nays, 38.

The bill, as amended, was finally passed by the House—yeas, 77; nays 4—with an amendment of title, as required by Mr. Cauthorn's amendment, viz.: Striking out these words: "In relation to the organization of the two Houses of the General Assembly."

On motion of Mr. CAUTHORN, the House concurred in the Senate amendment to the title of this organization bill [H. R. 119] making it "an act," instead of a "bill."

SECOND JUDICIAL CIRCUIT.

On motion of Mr. RUDDER, the second Circuit Court bill [S. 118] was taken up and (the restrictions having been removed for the purpose) it was finally passed the House of Representatives without amendment.—Yeas, 78; nays, 3.

TIPPECANOE BATTLE GROUND.

On motion of Mr. COLE, the bill, [S. 45] to provide for the permanent enclosure of the Tippecanoe battle ground, was taken up and referred to the Committee on the Battle Ground.

CALUMET FEEDER DAM.

The SPEAKER laid before the House a communication from the Attorney General in relation to the Calumet feeder dam, which was referred to a special committee, to wit: Messrs. Wood, Coffman and Crumpacker.

COMMON SCHOOLS.

Mr. MELLETT obtained unanimous consent to return from the Committee on Education his bill [H. R. 55] to amend the common school law, which he did, reporting sundry amendments thereto, which were adopted.

On motion of Mr. BRANHAM, the bill, as amended, was laid on the table, and it was ordered that 200 copies be printed.

INDIANA UNIVERSITY.

Mr. HATCH, by leave, introduced a bill [H. R. 255] supplemental to the act for the relief of the Indiana University, and increasing and extending its benefits by providing for the sale of the unsold University lands donated by the Congress of the United States.

THE JUDICIARY.

Mr. WOOLLEN asked and obtained leave to introduce a bill [H. R. 256] to regulate the order of business in the Circuit and Common Pleas Courts; to authorize Judges to make orders for the time of forming issues, etc.

On motion of Mr. EDWARDS, of Lawrence, the bill [S. 134] was taken up and referred to the Committee on the Organization of Courts.

A message was received from the Senate, announcing the passage in that body of the mileage and per diem bill [H. R. 73] with a clerical amendment of title, and it was taken up and concurred in.

The House then adjourned.

THE

BREVIER LEGISLATIVE REPORTS.

THIRTEENTH VOLUME.

INDIANA LEGISLATURE.

IN SENATE.

TUESDAY, December 17, 1872.

The Senate met pursuant to adjournment. President Friedley in the chair. Prayers were offered by the Rev. W. F. Harned, Presiding Elder of the M. E. Church.

Mr. WILLIAMS moved to amend the journal by inserting his motion of yesterday afternoon, when the bill to redistrict the State for Senatorial and Representative purposes was on the third reading.

He claimed that he moved to recommit the legislative apportionment bill to a committee of one from each Congressional District, with instructions to strike out all after the enacting clause and substitute a new bill. The journal did not contain the last clause of the motion, and he moved that it be corrected accordingly.

Mr. BROWN moved as a substitute that the journal be corrected so as to read that Mr. Williams moved to recommit the bill "with instructions," without specifying what the instructions were.

Mr. WILLIAMS moved ineffectually to lay the amendment on the table—yeas 27, nays 12.

Mr. CARNAHAN stated, when his name was called, that he knew Mr. Williams' statement to be perfectly correct.

Mr. ORR also heard the motion to recommit, but had no recollection of the offering of a substitute, and therefore he should vote "no."

Mr. SCOTT also explained his vote. He would like to know what paper accompanied the motion.

Mr. WADGE remembered distinctly the facts as stated by Mr. Williams.

Mr. BROWN offered another substitute, that Mr. Williams moved to recommit with instructions, and stating his reason as President pro tem. for ruling it out of order—the Senate having ordered the main question—acting under the operation of the previous question.

Mr. WILLIAMS insisted on his statement as first sent up, and if voted down it would only be adding insult to injury. He moved to lay the substitute on the table.

This motion was rejected by yeas 29, nays 20.

The substitute was then adopted and the PRESIDENT ordered the journal so corrected.

Mr. GLESSNER moved to further amend the journal by a inserting a statement that on the motion of Mr. Williams to lay Mr. Dwiggins' motion to take up the bill, [S. 46] the yeas and nays being called for, before the Secretary proceeded to call the roll Mr. Glessner asked to be excused from voting, which motion to be excused was by the chair declared out of order; thereupon Mr. Glessner appealed from the decision of the chair, and asked leave to send up his appeal, which was disregarded, and the Secretary directed to proceed with the roll call.

Mr. DWIGGINS made an ineffectual motion to lay this motion on the table—yeas 13; nays, 22.

Mr. GOODING explained his vote by saying his recollection was with the mover.

Mr. HAWORTH obtained an exemption from voting.

Mr. O'BRIEN'S recollection was not in accord with the proposed amendment.

Mr. ORR recollected the motion as stated.

Mr. SLEETH thought the statement partly correct and partly incorrect.

Mr. BROWN offered a substitute, reciting that pending a motion by Mr. Williams to lay Mr. Dwiggins' motion to take up the bill [S. 146] on the table, and to consider it engrossed and read the third time and put upon its passage, and that the presiding officer had directed the Secretary to proceed with the roll call, when Senator Glessner exclaimed that he desired to be excused from voting, but Senator Glessner was not recognized by the Chair, saying such a motion was out of order, when Senator Glessner exclaimed he would appeal from the decision of the chair, and Senator Glessner did not put his appeal in writing.

Mr. BROWN supported his motion by reference to past experience in such resorts to legislative trickery, as was attempted by the Senator from Shelby (Mr. Glessner.) He said he thought he could see through the efforts of the gentlemen to secure these amendments to the journal. It had been given out on the floor of the Senate that this bill would be taken before the courts, and the gentlemen were now trying to manufacture evidence to be used before the courts. He called attention to the fact that Mr. Glessner's amendment did not recite Mr. Dwiggin's motion correctly, and said a deliberate effort was being made to garble the records.

Mr. DWIGGINS said that Mr. Glessner's request to be excused and his appeal were not made until the Secretary had commenced to call the roll, and he was clearly out of order. This being the case, he did not see why the journal should be cumbered with the record of these proceedings.

Mr. STEELE made the point that a request from the Senator from Shelby to be excused from voting was not in order until his name was called.

Mr. BEESON moved to lay the whole subject on the table.

Mr. GLESSNER appealed in vain to the Senator to withdraw the motion, and give him an opportunity of replying to the three Senators who had spoken against his amendment.

The motion to lay on the table was agreed to by yeas 26 to nays 19.

The PRESIDENT said if there are no other corrections of the journal it will stand approved.

CALUMET DAM.

He also laid before the Senate a communication from the Attorney General, transmitting a statement concerning the present condition of the Calumet dam at Blue Island, in the State of Illinois.

Mr. DWIGGINS moved that the reading of this somewhat lengthy communication be dispensed with and that it be referred to a select committee of three.

The motion was agreed to.

The PRESIDENT subsequently made this committee to consist of Messrs. Wadge, Hubbard and Winterbotham.

On motion by Mr. HAWORTH the order of business was dispensed with, and the Senate agreed to consider the court bill [H. R. 172.]

And then came the recess.

AFTERNOON SESSION.

The Senate met at 2 o'clock.

COURT BILLS.

The bill pending at the time of the recess [H. R. 172] to fix the time of the Common Pleas Courts in the Sixth Judicial District, affecting the counties of Franklin, Union, Fayette, Wayne, was read the first time.

On motion of Mr. GOODING the bill [R. H. 257] to amend section 3 of the act districting the State for judicial circuits, approved June 17, 1852, so that Knox, Daviess, Martin, Gibson, Vanderburg and Posey shall constitute the Third Judicial Circuit, was read the first time.

He moved for a dispensation of the Constitutional restriction, that the bill may be pressed to its final passage now.

The motion was agreed to by yeas 35, nays 0.

It was read the second time and passed by yeas 40, nays 1.

On motion of Mr. GOODING, the bill [H. R. 258] to amend the first section of an act to create the Fifteenth Judicial Circuit out of the counties of Warrick, Spencer, Perry, Crawford, Dubois and Pike, was read the first time.

Mr. GOODING moved to further suspend the rules that the bill may be pushed to its final reading.

This motion was laid on the table.

TAX ASSESSMENTS.

Mr. STEELE, from the Committee on Finance, returned the bill [H. R. 163] to provide for a uniform assessment of property, and for the collection and return of taxes thereon, which took its place on the files after the report was concurred in.

PETITIONS.

Mr. BROWN presented petitions from citizens of Shelby county, praying against the passage of a bill before this General Assembly legalizing certain assessment acts of gravel road companies, which were referred to the Committee on Corporations.

Mr. STEELE moded to suspend the order of business that the bill [H. R. 163] for the assessment and collection of taxes, just returned from the Finance Committee, may be read the third time and put on its passage.

JUDGES' SALARIES.

Mr. GLESSNER called up the special order for the hour, being the bill to fix the salaries of Judges of the courts of the State.

A motion to make the bill the special order for Friday at two o'clock was agreed to.

TAX ASSESSMENTS.

The Senate then returned to the consideration of the bill [H. R. 163] to provide for the valuation of real and personal property for taxation.

Mr. NEFF moved to amend so as to provide that the shares of capital stock of banks shall be taxed at its cash value.

Mr. STEELE said the amendment was unnecessary, as the bill provides that all personal property shall be taxed at its fair, cash value.

Mr. NEFF said if the word "fair" was struck out he would be satisfied.

Mr. BROWN proposed to strike out the word "fair."

Mr. SLEETH said the section to which the amendment of Mr. Neff applied simply provided that the shares of bank stock should be taxed at the same rate as other personal property, and no more.

Mr. NEFF withdrew his amendment.

On motion of Mr. DWIGGINS, the bill was read the third time and passed by yeas 30, nays 7.

Pending the roll call—

Mr. GREGG, in explanation of his vote, said he could not support the bill. First, because he did not understand it. More than that, he did not believe the operation of the bill upon National Banks would be salutary, and thought the effect of the bill would be to raise the value of real estate. Still further, he did not believe in the establishment of a State Board of Equalization as provided for by the bill. He stated that National Banks cannot escape taxation if the county auditor does his duty, under the present laws, and he was surprised to hear that only one bank in the city of Indianapolis was paying taxes on its capital stock.

This bill should have the consideration that belongs to a subject of so much importance. The Legislature of Illinois were more than three weeks considering a bill of this kind. He apprehended some danger under this bill—that it will operate so as to put bank stock on the tax duplicate at a lower rate than under the present law. He would not vote that the taxes of the farmer be increased by shipping the burden of taxation from personal property and monied capital, and throwing more on real estate or upon commerce. Admitting that there were some valuable provisions in the bill, he could not consent to vote for it with these objections to it.

Mr. HARNEY, when his name was called, said this bill had one merit, at least, that it was consistent throughout; it created a system founded on the new order of things. The taxes were to be levied equally on all property at its fair valuation on a voluntary sale. Under the old law, the valuation was made at what the property would bring on a forced sale. The new system was certainly the better. The bill also provides that the assessment shall be made on the 1st of April instead of the 1st of January, so that the farmer would be relieved of taxes on the products consumed during the winter and early spring. He thought the bill was a decided improvement on the old system, and although it might not be perfect, it was worth passing, and could be perfected hereafter. He thought the plan would work well, and the only way to test it is to put it in operation. No doubt provisions will be found in it that will not prove effective. Human wisdom cannot make a bill perfect. Because it is a system is a good reason for trying this bill now. Human wisdom could hardly enact a worse system than we have lived under for some time past.

Mr. NEFF, in explanation of his vote, said: I confess in the vote I shall give I am not satisfied that it will be right. I was not aware till this afternoon that copies had been laid on the desks of Senators or I certainly should have improved the opportunity of acquainting myself with the provisions of the bill. I have but little doubt from the glance I have given it since it came up but that there are some good provisions in it, but there are other provisions I have doubts about the propriety of adopting. Having conversed with Governor Baker and some Senators who have examined the bill, I shall vote "aye," believing it is right, and if it should prove to be wrong we can remedy the evils during the next session.

We can examine the bill between this and the next session, and perfect it by a supplemental bill. I vote "aye."

Mr. ORR, when his name was called, in explanation of his vote, said this bill is a complicated bill. Not being able to examine it as I should like to, but having confidence in the statements of Senators who have examined it, under the circumstances I shall vote "aye."

Mr. SLEETH, in explaining his vote, said: There is one provision in this bill I believe will be stricken down by the courts. That is the clause authorizing corporations to tax the National Banks and the branches of the Bank of the State of Indiana. If that clause can be enforced, I am in favor of it. Notwithstanding I believe the bill is imperfect I shall vote "aye."

Mr. GLESSNER, when the roll call was completed, said: Having learned that there is a provision in the bill fixing the valuation of real estate the same as personal property, and believing that would be unfair to the agricultural portion of the community, I was induced to vote against the bill; but learning of another provision in it of as much importance as that, which I favor, I desire to change my vote, and vote "aye."

The result was then announced as above.

So the bill was finally passed.

TOWNSHIP TRUSTEES.

On motion by Mr. DAGGY, the bill [H. R. 227] providing for the payment to township trustees of all moneys collected for specific purposes, except such as may be collected for State and county revenue, was read the first time.

And then the Senate adjourned till tomorrow at 10 o'clock.

THE

BREVIER LEGISLATIVE REPORTS

THIRTEENTH VOLUME.

INDIANA LEGISLATURE.

HOUSE OF REPRESENTATIVES.

TUESDAY, December 17, 1872.

The SPEAKER directed the reading of the journal of yesterday.

On motion of Mr. TULLEY, the reading was dispensed with.

A message was received from the Senate announcing the passage and signing of sundry bills.

TIPPECANOE BATTLE GROUND.

Mr. HOLLINGSWORTH obtained unanimous consent to submit a report from the Special Committee on the Tippecanoe Battle Ground, returning the bill [S. 45] providing for the permanent enclosure of the Tippecanoe Battle Ground, recommending its passage. (The bill appropriates for the purpose $24,000 to enclose the grounds—8¼ acres—with an iron fence.) The report contains a statement of State's acquisition of these grounds, their treatment since, together with Mr. Talbot's estimate of the cost of their improvement.

Mr. WOODARD moved for a suspension of the Constitutional restrictions, which was agreed to—yeas, 59; nays, 17—and the bill was read twice, and advanced to the final passage, and it was finally passed the House of Representatives.—Yeas, 71; nays, 11.

THE JUDICIAL SYSTEM.

Mr. SHIRLEY said the session was drawing to a close, and as yet no sufficient action had been taken by the General Assembly looking to the revision of the judicial system, as recommended by the Governor in his special message. He therefore moved to take up Mr. Woollen's concurrent resolution providing for raising a joint committee of six members of the House of Representatives and three on the part of the Senate, to sit during the recess and revise the judicial districts, with a view to equalizing them. Mr. S. said some of the Judges were working only six months, while others were working eight, and still others ten, and by this means justice was often delayed. If the circuits could be equalized justice could be speedily administered, with diminished expense. He thought the salaries of all the judges should be raised, but was opposed to considering any measure for such increase until the districts and the labors of the Judges had been equalized. He felt confident that this joint committee will find that we have enough Judges already, and that we ought to increase their salaries. Five thousand dollars would be little enough for the Supreme Court, $3,000 for the Circuit, and $2,500 for the Common Pleas Judges. In quite a number of the Circuits and Districts the Judges are working only about six months in the year, and if we increase their salaries they should work at least ten months of the year. With the present compensation there is no lawyer who can take a judgeship without pecuniary sacrifice. We can't expect to get adequate talent without adequate compensation. This is matter that requires our attention as much as anything else. I wish to say, further, that I desire to adopt into our judicial system a rule to give the judges power to appoint trial terms and issue terms. It

will save the time of the jurors and witnesses, by excusing them from the necessity of hanging about the court houses.

Objection being made to taking up the concurrent resolution, the motion was not entertained.

THIRD JUDICIAL CIRCUIT.

Mr. WOLFLIN asked and obtained unanimous consent to introduce a bill [H. R. 257] to amend section 3 of the act of June 17, 1852, to provide for redistricting the State for judicial purposes. [It proposes to regulate the terms in the third circuit, composed of the counties of Knox, Daviess, Martin, Gibson, Vanderburgh and Posey.]

Mr. CAUTHORN moved to dispense with the constitutional restrictions, which was agreed to.

Mr. PEED opposed some local considerations to the passage of the bill, and Mr. WOLFLIN and Mr. CAUTHORN spoke in favor of the bill as especially desired by the bar and the people of Vanderburg.

The bill was finally passed the House of Representatives—yeas 80, nays 0.

FIFTEENTH JUDICIAL CIRCUIT.

Mr. WOLFLIN also introduced a bill [H. R. 258] to amend the first section of the act to create the Fifteenth Judicial Circuit, approved February 22, 1859—[the district to include Spencer, Perry, Dubois, Pike, Warrick and Crawford.]

Mr. HEDRICK moved ineffectually to lay the bill on the table.

Mr. PEED opposed the bill as he had the other, and for similar reasons—legislating a Judge out of one circuit into another.

Mr. CAUTHORN supported the bill as supplementing the provisions of the bill [H. R. 257] just passed the House. It was necessary to Vanderburg county and to enable the Judge living up in Spencer county to reach court by railroad. And then, the restrictions having been suspended for the purpose, the bill was finally passed the House of Representatives—yeas 76, nays 6.

WAYS AND MEANS REPORTS.

Mr. KIMBALL, from the Committee on Ways and Means, reported a bill [H. R. 259] making specific appropriations for the years 1871 and 1872, which was read and ordered to the second reading.

On motion of Mr. BRANHAM, it was referred to the Committee on Ways and Means, with notice to all persons entitled to present their claims for place in the bill.

Mr. KIMBALL also returned Mr. Billingsley's bill [H. R. 122] providing for appraisement of real estate in all cities of 30,000 inhabitants and more, and providing for compensation, and prescribing duties of county auditors therein, recommending its passage.

It was ordered to be engrossed.

Mr. KIMBALL also returned Mr. Mellett's bill [H. R. 54] to amend the act to secure a just valuation and assessment of railroad property, recommending that it be laid on the table.

The report was concurred in.

ATORNEY GENERAL.

The SPEAKER announced the consideration on the third reading of Mr. Riggs' bill [H. R. 113] to amend section two of the act to amend sections four and seven of the act providing for the election, etc. of the Attorney General; shall receive a salary of $3,000 per annum and a $10 docket fee taxed against the adverse party.

The bill was finally past the House of Representatives—yeas, 69; nays, 0.

RESTORED TO THE CALENDAR.

On motion by Mr. GIVAN, Mr. Ellsworth's bill [H. R. 59] was restored to the calendar.

On motion of Mr. CLAYPOOL, his railroad security bill [H. R. 241] which failed for want of a constitutional majority was restored to the calendar.

On motion of Mr. SATTERWHITE, Mr. Riggs' bill [H. R. 198] was also restored to the Clerk's files.

INTEREST ON SCHOOL FUND.

The SPEAKER took up the consideration on the third reading of Mr. Lenfesty's bill to render uniform the rate of interest on the common school fund of the State (8 per cent.); and it was finally passed the House—yeas 86, nays 0.

FELONY.

The SPEAKER took up the consideration of Mr. Edwards of Vigo's bill [H. R. 148] to define certain felonies and providing punishment therefor, compelling testimony of parties engaged therein against others than themselves (declaring it a felony, and punishing it accordingly, for any public officer letting a contract to receive any per centage, drawback or reward of bribery thereon, declaring all such contracts void, etc.); and it was finally passed the House of Representatives—yeas 87, nays 3.

TOWNSHIP TREASURIES.

The SPEAKER announced the consideration of the third reading of Mr. Gil-

ford's bill [H. R. 227] to provide for the payment into the township treasury of all moneys collected from townships for all purposes, except State and county revenue.

It was finally passed the House—yeas 86, nays 0.

COMMON SCHOOLS.

The SPEAKER took up on the third reading Mr. North's bill [H. R. 138] to amend the third section of the act to authorize cities and towns to negotiate and sell bonds for school building purposes, etc., approved March 11, 1867.

Mr. NORTH said it provides that persons living outside of town or city availing themselves of the city or town common schools, shall be taxed therein for school purposes.

It was finally passed the House of Representatives—yeas 65, nays 6.

Mr. Riggs' court bill [H. R. 223] being superceded, was laid on the table.

SAVINGS BANK OFFICERS.

Mr. Riggs' bill [H. R. 198] to amend sections 15, 19, 31 and 49 of the act of May 12, 1869, providing for the organization of savings banks and the proper management of their affairs, which had once failed, on the third reading for want of the constitutional majority, was again submitted to the vote.

Mr. WOLFLIN said it was to admit of salary to the officers of savings banks doing a business of $250,000, etc.

The bill was now finally passed the House of Representatives—yeas 81, nays 2.

ROADS—POOR HOUSE.

Mr. BILLINGSLEY'S bill [H. R. 123] prescribing the time for transaction of road business, and for the appointment of superintendent and physician for the poor, which provides that road business shall be transacted only at regular sessions, and that superintendents and physicians for the poor shall be appointed at the December sessions, was taken up on the third reading and passed the House of Representatives—yeas 71, nays 6.

Mr. BAKER'S bill [H. R. 174] to amend the thirty-second section of the General City Corporation Act of March 14, 1867, by providing that the city treasurer in the collection of taxes shall not be compelled to accept city orders for sinking fund purposes, was taken up on the third reading, and finally passed the House of Representatives—yeas 54, nays 20.

VOLUNTARY ASSOCIATIONS, ETC.

The Corporation's Committee bill [H. R. 104] to amend section two of the act concerning the organization and perpetuity of voluntary associations, and repealing, etc., coming up on the third reading.

Mr. OGDEN stated that it is a copy of the bill [S. 40] and on his motion it was laid on the table, and the bill [S. 40] with similar title and provisions was taken up. He said this bill admits of the organization of companies for the safe deposit and loaning of money. And on his further motion the constitutional restriction was suspended and the bill was advanced to the third reading.

Mr. WALKER said this bill also proposed to amend the laws so as to allow the organization of institutions for the medical treatment of the diseases of women.

Mr. MILLER feared that the provision for the organization of loan companies might admit of a system of free banking in Indiana, and that he was opposed to.

Mr. OGDEN assured the House that it was simply a provision to admit foreign capitalists to loan money through established agencies in the State. It was the opinion of the committee that it might make money easier. The bill admitted these companies to receive valuables on special deposit, making the incorporators responsible to the depositors. The bill was finaliy passed by the House of Representatives, yeas 75, nays 2.

FIRST JUDICIAL CIRCUIT.

Mr. WILSON, of Ripley's First Judicial Circuit bill [H. R. 177] embracing the counties of Ripley, Jennings, Jefferson and Switzerland, was taken up on the third reading.

Mr. WILSON said it was for the accommodation of the judge and parties—changing the time in Switzerland court.

It was finally passed the House of Representatives—yeas, 80; nays, 0.

INDIANA UNIVERSITY.

Mr. FURNAS' bill [H. R. 56] to appropriate $20,000 annually towards the endowment of Indiana University was taken up on the third reading, and after sundry propositions to reduce the amount of the appropriation, and when the bill had failed on the trial vote, on motion of Mr. Branham the vote was reconsidered, and the bill was referred again to the Committee on Education, with instructions to amend by reducing the amount to $15,000.

The House then took a recess till two o'clock p. m.

AFTERNOON SESSION.

The House assembled at two o'clock.

PROFESSIONAL JURYMEN.

The SPEAKER announced the consideration of Mr. Givan's bill [H. R. 171] prescribing for the manner of selecting petit jurors for the Circuit and Common Pleas Courts, it being on the third reading. [The bill provides that when the jurors are drawn there shall be drawn also twelve contingents, from which list any vacancies shall be filled, and that no bystander shall be called until the list of contingents is exhausted.]

Mr. GIVAN. The object is to secure jurors from the reputable common people for the courts and to prevent the services of what are called professional jurors. [It requires the Auditor, Treasurer and Recorder to deposit 100 names in a box before the term, and requires the clerk to issue process to the sheriff to summon the first twelve the clerk draws from the box—not to summons the contingents—the second drawing—till the first day of the term; then he shall give to him the twelve contingents—the second drawing—to supply the place of those of the first drewing who shall fail to appear.

The bill was finally passed the House of Representatives—yeas 78; nays 0.

LABORERS' LIEN.

Mr. MILLER obtained leave to return Mr. Claypool's [H. R. 241] to secure the rights of laborers on railroads, etc., by lien; and—

On motion of Mr. CLAYPOOL, the restrictions being suspended for the purpose—

The bill was finally passed the House of Representatives—yeas 88; nays 0.

APPORTIONMENT FOR REPRESENTATION.

Mr. CAUTHORN obtained leave to introduce a bill [H. R. 260] to fix the number of Senators and Representatives for the State of Indiana, and to apportion the some among the several counties, and he asked that it lie on the table for the present. And it was so ordered by unanimous consent.

On motion of Mr. CAUTHORN, (on a division, affirmative, 50, negative, 46) the House took up the consideration of the apportionment bill [S. 136], and it was read the first time.

Mr. CAUTHORN now moved that this bill and his bill [H. R. 260] be referred to the Committee on Elections.

Mr. WALKER had no objection that the gentleman's bill should take any course that he desires. I should prefer that the bill from the Senate lie over and take its regular place on the calendar.

Mr. BRANHAM hoped the House would consent to the printing of this bill. There can be no urgency for passing it at this session, and its importance demands a careful examination. And I hold that this House can't afford to make an unfair apportionment, which might be done if we were to pass this without due consideration. I move to lay the Senate bill on the table, and that both the Senate bill and that of the gentleman from Knox (Mr. Cauthorn) be printed.

The motion was agreed to, and the printing was ordered. But Messrs. Walker and Woolfin insisted that they had demanded the yeas and nays in time to save them under the rules; and accordingly they were taken resulting—yeas 55; nays 40; as follows:

YEAS—Messrs. Anderson, Baker, Barrett, Blocher, Bowser, Branham, Brett, Butts, Cauthorn, Claypool, Cline, Coffman, Dial, Durham, Eaton, Ellsworth, Gass, Glasgow, Glazebrook, Goble, Goudie, Gregory, Heller, Henderson, Hoyer, Isenhower, Jones, Lent, Martin, McConnell, McKinney, Offutt, Peed, Pfrimmer, Reeves, Reno, Richardson, Rudder, Rumsey, Schmuck, Shirley, Shutt, Smith, Spellman, Stanley, Strange, Tester, Tingley, Thompson of Spencer, Troutman, Tuley, Wesner, Whitworth, Willard, and Woollen—55.

NAYS—Messrs. Baxter, Billingsley, Broadus, Clark, Cobb, Cole, Edwards of Lawrence, Eward, Farmer, Gifford, Gronendyke, Hardesty, Hatch, Helmick, Hollingsworth, Johnson, Kimball, King, Kirkpatrick, Lenfesty, Mellett, Miller, North, Odle, Ogden, Prentiss, Riggs, Satterwhite, Scott, Thayer, Thompson of Elkhart, Walker, Wilson of Blackford, Wilson of Ripley, Wolfiin, Wood, Woodard, Wynn and Mr. Speaker—40.

So the motion prevailed, and it was ordered that the bill be laid on the table, and that both be printed.

LEAVE OF ABSENCE.

On motion of Mr. WALKER, Mr. Offutt was accorded indefinite leave of absence, he having received a dispatch informing him of sickness at home.

JAMES. F. DILL.

Mr. WOODARD submitted a preamble and resolution, reciting the employment of James F. Dill by the Doorkeeper, under an order of the House, and ordering that the proper warrant be drawn for his pay.

Mr. BARRETT submitted remarks for the passage of the resolution, and it was adopted.

The SPEAKER said the warrant would have been drawn, but the record of the resolution was never made, and the doorkeeper never reported the employe, and this accounts for the number of warrants exceeding the reported number of employes—it is because the House passes these resolutions.

INDIANA UNIVERSITY.

Mr. GLAZEBROOK, from the Committee on Education, returned Mr. Furnas' Indiana University (20,000) appropriation bill [H. R. 56] with the amendment directed by the House, striking out $20,000 and inserting $15,000 in lieu, and so amended, the committee recommended the passage of the bill.

The amendment was adopted and the bill was finally passed the House of Representatives—yeas 60, nays 35.

TWENTY-SECOND JUDICIAL DISTRICT.

Mr. EDWARDS, of Lawrence, from the majority of the Committee on the Organization of Courts, returned the bill [S. 134] to fix the courts in the Twenty-sixth Judicial District for the Common Pleas Court.

Mr. SHIRLEY, with Mr. CLAYPOOL, as the minority of said committee, recommended that the bill be indefinitely postponed for the reason that Judge Emerson has twenty-two weeks and Judge Coffman nineteen. The question being on concurring in the report of the minority, debate followed—Messrs. Shirley, Woollen, Barrett and Offutt for the minority report, and Messrs. Wilson, of Ripley, Satterwhite, Cowgill and Edwards, of Lawrence, against it—till Mr. Satterwhite demanded the previous question, which was seconded by the House, and under its pressure the minority report was concurred in, and substituted for that of the majority of the committee. The report as thus substituted or amended was concurred in—yeas 49, nays 44—and so the bill was indefinitely postponed.

MECHANICS' LIEN.

Mr. LENFESTY'S bill [H. R. 136] to amend section 647 of the Practice Act of June 18, 1852, was taken up on the third reading.

Mr. L. said this bill becomes necessary under a recent decision of the Supreme Court, in which the Court takes a view a little different from that intended by the Legislature. The bill provides that, in order to make the party liable under the mechanics' lien law, he shall have notice; otherwise, the man might have to pay for his work more than once.

The bill finally passed the House of Representatives, yeas 93, nays 0.

APPORTIONMENT FOR REPRESENTATION.

Mr. TROUTMAN submitted a motion to reconsider the vote of the afternoon by which it was ordered that the two apportionment bills—that from the Senate and Mr. Cauthorn's—were laid on the table and ordered to be printed.

Mr. BRANHAM hoped the motion would not prevail. He could see no possible necessity for it. It is nothing more than what is due to the House that the vote should remain as it is. There is no good reason for such undue haste in a matter of this sort. It is one of the highest prerogatives of government—this act of apportionment for representation. It lies at the very foundation of government, and you cannot lightly say that one person in the State is not entitled to as much representation as another. I do not ask of this House anything but what is clearly right; and it is not right when you ask me to record my vote for a bill without the opportunity of seeing whether it is right or not. When did this bill come here? Why do you strike at the dearest rights of the people, and say, because a portion of them differ with you in politics, you will disfranchise them? I tell the majority here that they can't afford to take such action—and if they do, they will not hold their majority long. If we make an apportionment here it ought to be so made that we can sustain it before the people. It is but a mockery of representation to attach one county to another in the same district when you know that it will overwhelm and stifle the voice of the people. Four years ago I happened to be on this floor when a secret outside influence obtained the passage of a corrupt apportionment bill; and I said then that no power of man should ever force upon me an unjust apportionment. I take the ground that the majority here ought to give to the other side and to themselves a fair chance to examine this bill.

I have been told by a gentleman of the other branch of this body that is was an infamous bill—one that ought not to pass. Then let us have it printed. Who is the author of this bill? From whence does it come? Why should it come in here and be passed under the threat of partizan excommunication? Thank God, such threats have no terrors for me. Let us give to the people, as near as may be, a fair apportionment. I am well aware of the difficulties to be met with in adjusting these matters. There are not only public difficulties as to what should be the complexion of such an act, but in spite of us there will come in those numerous private interests. And let me tell gentlemen that those private interests were at the very bottom of this bill, and not the public good. So far as my county is concerned, I have nothing to say with regard to its

provisions. But no man can look over it without observing some glaring defects which ought to be removed. And what have we to fear? Gentlemen have got up a bugbear about the breaking up of this session; but I tell gentlemen that if this session is to be broken up, it will be done by the tyranical act of the majority. Suppose the minority to bolt upon say the Congressional apportionment bill? Does any man here propose to vote for a bill that will not give to one-half the people of the State four members of Congress? Let gentlemen change sides for a moment; how would you like it if such a bill were to be forced upon you? Every impulse of a manly heart would be to rebel against such a thing.

But do you say if we pass no apportionment bill our party will be endangered? How much better do you propose to make the apportionment than it is at present? But gentlemen say if this bill goes over to the regular session there will be the devil to pay. [Laughter.] Well, I am willing to settle with the old gentleman. There are none of us but must heartily approve of the spirit that has prevaded this session so far. For twenty years I have had the pleasure, sometimes as a member and sometimes in the lobby, of witnessing the proceedings of this body, and there has not been a session in all that time where the members generally have gone into the work of the State with more intelligence and zeal than they have at this session. I do not ask for this bill to go over to the next session, but only for a chance to examine it. I will tell gentlemen how I would make an apportionment bill. I would make the districts as nearly equal as possible; but in any case where there might be a doubt I would give to my political friends the benefit of the doubt. But some gentlemen give as a reason for urging this doubt, that if you will let it go over to the regular session the Governor will veto it. But that cannot be the true reason; for gentlemen know if the Governor does veto it, that fifty-one votes will still pass the bill. No; there are other reasons for this urgency—some secret reason, perhaps, which I do not know. But I must appeal to gentlemen in the name of the State of Indiana—in the name of justice and the sacred principles that lie at the foundation of the government, let us come up to the consideration of this bill, fairly, amend the glaring blunders of its authors, and pass it.

Mr. OFFUTT moved to lay the motion to reconsider on the table.

The motion was lost by a tie vote on a call of the yeas and nays—48 to 48.

Mr. GIVAN moved to adjourn. The yeas and nays were demanded, and the vote resulted—yeas 45, nays 52. So the House refused to adjourn.

Mr. WILSON, of Ripley, demanded the previous question, but there was not a second to the demand by a majority of the House.

The question recurring upon the motion to reconsider, it was carried by yeas 49, nays 48.

A message was received from the Senate announcing the signing by the President of certain bills.

Mr. KIMBALL moved to refer the bills to the Committee on Elections.

Mr. CAUTHORN raised the point of order that the only question which could be considered was the disposition of the reconsidered vote to print the bills.

The SPEAKER sustained the point of order. The question is: Will the House order the Printing of these bills [H. R. 260, S. 136?] It is the motion of the gentleman from Jefferson.

Mr. MILLER. I move to lay the motion to print on the table. But he was induced to withdraw the motion for the present.

Mr. CAUTHORN. I hope the motion to print will prevail. Here are two different bills involving the most important question in legislation; and we want to see them. [A voice: the Senate bill is printed.] I introduced one of them today—and we have not seen that; but I am not ashamed to print it, and let it go to the country—the people—who have a right to know what we are acting on.

Mr. KIMBALL might be willing to incur the expense of the printing. But this bill has been printed in the newspapers, and received both the approval and the condemnation of the press; and, therefore, the printing is unnecessary.

Mr. BRANHAM. I wish to say to the House and to the gentleman from Marion (Mr. Kimball), that I have seen no copy of this bill, either in the papers or anywhere else: and that I am not in the habit of going to the newspapers for information of biils before this House. I ask for the printing that the matter may be before us, that we may act intelligently.

Mr. HOLLINGSWORTH insisted that we have all had all the opportunity we need to examine this bill, and it is unnecessary to incur the expense of printing.

Mr. SHIRLEY alleged mistakes and inaccuracies in the printed bill of the Senate, and hoped the majority would give us a fair chance to look at it, that, if

possible, all may come to an agreement on some just measure. Let us know at least just what we have.

Mr. KIMBALL insisted again that gentlemen have had the bill before them in print long enough to have considered it conscientiously, and to have determined whether it ought to pass the House; and that it must be only to gain time that they ask for this printing. Only yesterday it was printed in the papers. Then why object? and why not let it go to our committee and proceed in order?

Mr. RICHARDSON. What harm can come to the majority by delay?

Mr. KIMBALL. We want to do something else.

Mr. MELLETT. There is another reason why it is necessary that we should make this apportionment at this session. I understand it is required by the Constitution that we should make it at this session, and I have no doubt that gentlemen know this. He read the provision in the fourth article of the Constitution, gathering from it, that it is part of our sworn duty to make this apportionment before the adjournment of this session: and he was therefore in favor of referring the bill to the Committee on Elections, and could see no occasion for the printing. We have seen it in the papers; and if it is not entirely correct there, the press and the country would be glad to have it in the corrected form as soon as possible.

Mr. BRANHAN. In what paper has it been printed?

Mr. KIMBALL. In yesterday's *Journal*.

Mr. GREGORY showed that it is not contemplated by the Constitution that we should make this apportionment at this session, but that the just inference is that it should go to the regular session; and that being the case, there can be no harm in giving time for examination. I have not read the bill by sections myself. It is true, I have heard it read here by the clerk, from whom I have been able to gather but a very imperfect understanding of it; and gentlemen tell me themselves that they do not comprehend it yet, and desire intelligent action. The gentleman from Jefferson (Mr. Branham) intimates that there has been some secret manipulations connected with it. I move, therefore, that the further consideration of this subject be postponed, and that it be made the special order for to morrow.

Mr. MELLETT. Still it seems to me that the apportionment should be made at the session next after the census and the general election. If the regular session is the only session provided for in the constitution, then the gentleman's argument might be good, but it is not.

Mr. LENFESTY. It seems to me that this Senate bill, which is the work of the majority—if we desire that the bill should go to the appropriate committee for the purpose of amendment—we have the right to give it that direction. As far as the democratic members are concerned, who say they do not know what is contained in our bill, I believe that every one of them has its discrepancies noted and taken down in his pocket.

Mr. RICHARDSON. I desire publicly to deny that.

Mr. LENFESTY. The gentleman may be an exception; but still I believe what I have stated to be generally true. They have examined it, in caucus and out of caucus, and perhaps a large majority of them have read it from end to end. But for the purpose of testing the sense of the House here, I move to lay the motion to print on the table.

Mr. WILSON, of Ripley, made the point of order, that the pending motion is to lay on the table and print.

The SPEAKER. Perhaps the gentleman from Grant can arrive at his object by a division of the question.

Mr. LENFESTY. I will withdraw that, and demand the previous question.

There was a second to the demand for the previous question. Affirmative 48, negative 44, and the main question was ordered, viz.: "Shall the bills [H. R. 260 and S. 136] be laid on the table and printed?" and the yeas and nays being demanded, ordered and taken thereon, resulted—yeas 47, nays 50—as follows:

YEAS—Messrs. Anderson, Baker, Barrett, Blocher, Bowser, Branham, Brett, Cauthorn, Claypool, Cline, Coffman, Dial, Durham, Eaton, Givan, Glawgow, Glazebrook, Goble, Goudie, Gregory, Heller, Henderson, Hoyer, Isenhower, Martin, McConnell, McKinney, Offutt, Peed, Pfrimmer, Reno, Richardson, Rudder, Schmuck, Shirley, Shutt, Smith, Spellman, Stanley, Strange, Teeter, Tulley, Whitworth, Willard and Woollen—47.

NAYS—Messrs. Baxter, Billingsley, Broadus, Butterworth, Butts, Clark, Cobb, Cole, Cowgill, Crumpacker, Edwards, of Lawrence, Eward, Furnas, Gifford, Gronendyke, Hardesty, Hatch, Hedrick, Hollingsworth, Johnson, Kimball, King, Kirkpatrick, Lenfesty, Lent, Mellett, Miller, North, Odle, Ogden, Prentiss, Reeves, Riggs, Rumsey, Satterwhite, Scott, Thayer, Tingley, Thompson, of Elkhart, Thompson, of Spencer, Troutman, Walker, Wesner, Wilson, of Blackford, Wilson, of Ripley, Woollfin, Wood, Woodard, Wynn and the Speaker—50.

So the motion to print was rejected.

Mr. KIMBALL moved to refer the bills to the Committee on Elections.

Mr. CAUTHORN moved to amend by referring the bills to the Committee of the whole House, as the special order for

Thursday, immediately after the reading of the journal.

Mr. EDWARDS, of Lawrence, moved to lay the amendment on the table.

The vote thereon resulted—yeas 50, nays 43. So Mr. Cauthorn's amendment to the motion was rejected; and then the question recurred on Mr. Kimball's motion that the bills be referred to the Committee on Elections.

A message was received from the Senate announcing the signature of the per diem bill [H. R. 73], etc.

Mr. EATON moved for an adjournment, and therefore—

The House adjourned.

THE

BREVIER LEGISLATIVE REPORTS.

THIRTEENTH VOLUME.

INDIANA LEGISLATURE.

IN SENATE.

WEDNESDAY, December 18, 1872.

The Senate met pursuant to adjournment.

Prayer was offered by the Rev. E. B. Snyder of the M. E. Church.

Mr. Taylor, as a question of privilege offered a resolution reciting the fact that a clerical error had occurred in the enrollment of the bill [S. 45] concerning the enclosure of the Tippecanoe Battle Ground, and ordering the Secretary to inform the House thereof.

The motion was agreed to.

HUNTING ON ENCLOSED LANDS.

On motion by Mr. NEFF, the bill [H. R.] to prevent hunting and shooting on enclosed lands without the consent of the owner or occupant thereof, was read the second time.

He moved to dispense with the constitutional restriction that the bill may be put on its passage.

Mr. HALL moved to refer it to the Committee on Rights and Privileges.

Mr. NEFF appealed to Senators to withhold their dilatory motions and allow the bill to pass, as it is one in which his constituents are very much interested.

Mr. BROWN looked upon the bill with anxiety, and objected to its being hurried through the Senate.

Mr. BOONE had suffered from carelessness by hunters living 100 miles away, and thinking this bill would have a wholsome effect, hoped it would pass.

Mr. STEELE had confidence enough in his neighbors to believe that they will not commit depredations on his lands, and thought this bill looked too much like the regulations of England, made to favor the large landed proprietors there. Such a law would create more difficulty among neighbors than any measures that would be passed. Mr. S. was opposed to the bill. He said he had no objection to his neighbors hunting over his fields and woods for squirrels or crows.

The PRESIDENT (interrupting) thought the Senator should omit "crows," as there had not been much demand for that sort of game of late.

Mr. SCOTT earnestly advocated the bill.

Mr. GREGG moved that the bill be referred to the Committee on Rights and Privileges.

Mr. DAGGY moved to law the motion on the table.—yeas 27, nays 17.

After discussion the motion was agreed to.

On motion of Mr. BROWN, the bill was amended so as to make its provisions more specific.

Mr. GREGG submitted an amendment, as follows:

> Any person or persons who shall trespass upon inclosed lands of another, by walking through or over the same, without license, after being notified of the objection of the owner or occupant of said lands, either personally or by notices properly posted, to the number of three or more to any one inclosure the posting of which shall be deemed equivalent to personal notice, shall be deemed guilty of a malicious tresspass, and on conviction thereof shall be punished as in other cases of malicious tresspass.

Sundry other amendments were offered.

Mr. GOODING moved that the bill, with the amendments, be referred to the Committee on the Judiciary.

The motion was agreed to.

The Senate then took a recess till two o'clock.

AFTERNOON SESSION.

At two o'clock the principal Secretary rapped on the President's desk, when on motion the Senator from Jasper (Mr. Dwiggins) was called to the chair.

SCHOOL HOUSE.

On motion by Mr. O'BRIEN the bill [H. R. 90] to legalize the acts of the Trustees of Sharpsville in building a school house on a public square was read the first time and finally passed by yeas 43, nays 0, under a dispensation of the Constitutional restriction.

APPOINTMENTS.

On motion by Mr. STEELE, the appointment by the Governor of John W. Ray, of Marion county, as Commissioner of the House of Refuge, to serve till March, 1875, also Amos S. Evans, of Allen county, to serve till March 1, 1877, were ratified and confirmed.

UNION STOCK YARDS.

On motion by Mr. OLIVER, the bill [S. 151] to amend the manufacturing and mining incorporation act so as to authorize the incorporation of union stock yards and transfer companies and elevator companies, was read the third time.

Mr. OLIVER stated that this bill was for the purpose of forming a law under which union stock yards and transfer companies and grain elevator companies may be organized. His constituency were particularly interested in this measure at this time, as there are organizations being now formed not only for a stock yard, but a grain elevator is in progress of erection, which is expected to cost over $100,000. The bill passed—yeas 42, nays 0.

SURVEY AND PLAT.

On motion by Mr. WILLIAMS, the bill [H. R. 95] authorizing incorporated cities and towns to adopt a survey and plat thereof, was read the second time.

On his further motion, under a dispensation of the constitutional restriction, the bill was read the third time and passed—yeas 42, nays 1.

SIXTH COMMON PLEAS.

On motion by Mr. BEESON the bill [H. R. 172] to fix the time of the Common Pleas Courts in the Sixth District—Franklin, Union, Fayette and Wayne counties—was read the second time.

On his further motion the rule prescribed by the Constitution was suspended, and the bill was read the third time and passed—yeas 45, nays 0.

SCHOOL TAXATION.

Mr. SCOTT, by leave, presented a report from the Committee on Education, returning the bill [S. 150] for the legalizing of school taxation, to legalize taxes heretofore levied for tuition by school trustees of any town or city, etc., with recommendation that it pass.

On his further motion the rule was suspended and the bill passed.

CALUMET DAM.

Mr. WADGE, from the special committee to whom was referred the report of the Attorney General on the Calumet Dam, reported a concurrent resolution authorizing the Attorney General to proceed as best he may to abate the nuisance.

The report was concurred in.

INCREASE OF SALARY.

On motion by Mr. GOODING, the bill [H. R. 113] to allow the Attorney General a salary of $3,000 and a docket fee of ten per cent. to be taxed against the adverse party, was read the first time.

He made an ineffectual motion—yeas 18, nays 22—to dispense with the constitutional restriction, that the bill may be passed to its passage.

LEGALIZING TAXES.

On motion by Mr. HARNEY, the bill [S. 150] to legalized taxes heretofore levied by school trustees, in any incorporated city in this State, not to exceed the amount allowed by law, was read the second time.

On his further motion the bill was considered engrossed, read the third time and passed—yeas 40, nays 2—under a constitutional dispensation.

On motion by Mr. DAGGY, the [bill H. R. 227] to transfer to township trustees monies that have been collected for specific or general purposes, except such as have been collected for State or county revenue, was read the second time.

On motion by Mr. BROWN, it was referred to the Judiciary Committee, together with the bill H. R. 235 and the bill S. 161, both on the same subject.

JUSTICE JURISDICTION.

On motion by Mr. BUNYAN, the bill [H. R. 7] providing that Justices shall have original exclusive jurisdiction in cases

misdemeanors where the fine does not exceed $25, was read the second time.

On motion by Mr. SLEETH, the bill was amended by saying all cases pending in the courts.

On motion of Mr. GLESSNER, the word "can" was substituted for the word "does" not exceed $25 fine.

On motion by Mr. BUNYAN, the bill was read a third time under a dispensation of the constitutional provision.

Mr. DAGGY doubted the propriety of passing the bill.

So did Mr. BOONE. He said Justices were apt to be slow in dealing with cases, especially where defendants were desperadoes. It was often important that cases of the class referred to should be prosecuted more vigorously than those which involve crimes of a higher grade.

Mr. GREGG said the object of the bill was to relieve the higher courts of these petty cases.

Mr. DWIGGINS said the bill would give the mayors of cities of the authority to try this class of cases. More than that, it would take these cases away from the grand jury and result in an exemption of offenders from punishment in these small cases.

Mr. BUNYAN was willing that this bill shall be recommitted to the Judiciary Committee, so that time shall not be further taken up in its discussion.

It was so ordered.

BRIBERY OF OFFICERS.

On motion by Mr. SCOTT, the bill [H. R. 148] defining certain felonies and prescribing punishment therefor, compelling testimony by parties engaged therein, or against others and themselves, etc. [Any officer pecuniarily interested in any public work shall be fined and imprisoned, as well as any contractor of any public work who may give any bribe, drawback or other interest to any public officer.]

Mr. SCOTT moved for a dispensation that it may be read the second time.

Mr. ORR opposed hasty legislation. He favored this bill, but desired to see all such important measures carefully considered.

The constitutional restriction was dispensed with, yeas 37, nays 7, and the bill was read the second time.

Mr. SCOTT moved that the rule be suspended and read the second time.

It was carried, and the bill read.

Mr. SCOTT moved to amend so as to provide that before the removal of a county seat no new court house shall be built until a majority of the qualified voters at a regular election shall have signified their desire therefor.

Mr. BROWN made the point of order that the amendment was not germain to the bill.

Mr. SCOTT withdrew the amendment.

Mr. WILLIAMS moved to amend by including any person holding any appointing power, and such persons as may offer bribes or hope of reward to officials.

It was agreed to.

Mr. RHODES moved to amend by including the word "town," so it will be read "county, township, town or city."

The bill was referred to the Committee on County and Township Business.

CLERKS OF COMMITTEES.

On motion by Mr. DWIGGINS, the House amendments to the bill [S. 145] striking out the provision with reference to the employment of Clerks to Committees increasing the number of copiyng and engrossing clerks and striking out the sections referring to the officers who shall organize the General Assembly, were read.

Mr. DWIGGINS moved that the Senate refuse to concur with the amendments of the House.

It was agreed to.

The PRESIDENT subsequently appointed Messrs. Dwiggins and Slater the Committee of Conference on the part of the Senate.

COUNTY STATIONERY.

Mr. BUNYAN, from the Committee on County and Township business, returned the bill [S. 157] with reference to the buying of stationery for county and court officers, with amendments.

THE SCHOOL FUND.

Mr. STEELE, from the Committee on Finance, in compliance with a resolution of the Senate, reported a bill authorizing the $170,333 02, due from the State to be repaid to the school fund, which was entitled an act to provide for the payment to the school fund, certain moneys due to the State and to distribute the same; but the committee could not recommend the passage of the bill, for reasons recited; one reason being that the treasury will not be in a condition to repay the same for two years to come.

Mr. WILLIAMS moved to lay the whole matter on the table.

The motion was agreed to.

On motion by Mr. HUBBARD, the bill [S. 15] to authorize cities and towns to issue bonds to erect or finish school buildings, was read the second time.

NEW STATE HOUSE.

On motion by Mr. OLIVER the House concurred in the resolution offering a premium of one thousand dollars for an acceptable plan for a new State House, and appointing a committee of three Representatives and two Senators to receive and report on said plan near the close of the next session of the Legislature, was taken up and adopted.

The PRESIDENT subsequently appointed Messrs. Oliver and Scott the committee on the part of the Senate.

HUNTINGBURG.

On motion by Mr. CAVE, the bill [H. R. 185] to legalize the official acts of the Board of Trustees of the town of Huntingburg, Dubois county, Indiana, and all the officers of said town, was read the first time.

MICHIGAN CITY HARBOR.

On motion by Mr. WINTERBOTHAM, the joint resolution [H. R. 7] in relation to an appropriation of money by Congress to complete the harbor at Michigan City was adopted—yeas 39, nays 0.

EXEMPTION.

On motion by Mr. BROWN, the bill [S. 147] to exempt certain property from execution, was read the second time and referred to the Judiciary Committee.

PER DIEM OF MEMBERS.

Mr. HOUGH moved that the vote on the passage of the bill [H. R. 173] increasing the per diem of members of the General Assembly to eight dollars a day be reconsidered.

The PRESIDENT was of the opinion that the bill was beyond the reach of the Senate, having been sent to the Governor.

HUNTINGSBURG.

On motion by Mr. CAVE, the constitutional restriction was dispensed with by yeas 39, nays 1, and the bill [H. R. 185] to legalize the acts of the Trustees and officers of the town of Huntingsburg, Dubois county, was read the second time by title and the third time by sections, and passed the Senate by yeas 39, nays 0.

TWELFTH CIRCUIT COURT.

On motion by Mr. DWIGGINS, the bill [H. R. 134] to fix the terms of courts in the Twelfth Judicial Circuit of the State of Indiana—White, Newton, Jasper, Benton and Tippecanoe counties—was read the third time and passed—yeas 41, nays 0.

ACTS, JOURNALS AND BREVIER REPORTS.

Mr. SLATER offered a resolution as follows:

RESOLVED, That the State Printer be authorized to bind in sheep, and send to each member of the Senate and the elective officers thereof three copies each of the Acts, the Journals of the House and Senate, Documentary Journals and Brevier Reports.

It was adopted.

And then the Senate adjourned until to-morrow at ten o'clock a.m.

THE

BREVIER LEGISLATIVE REPORTS.

THIRTEENTH VOLUME.

INDIANA LEGISLATURE.

HOUSE OF REPRESENTATIVES.

WEDNESDAY, December 18, 1872.

The SPEAKER directed the reading of the journal of yesterday.

On motion of Mr. TROUTMAN the reading was dispensed with.

APPORTIONMENT FOR REPRESENTATION.

The SPEAKER resumed the unfinished business of yesterday, viz: the consideration of the bill [S. 146] to fix the number of Senators and Representatives of the General Assembly, and apportion the same among the several counties of the State—the question being on Mr. Kimball's motion to refer it to the Committee on Elections.

Mr. BRANHAM asked only that we may have a chance to amend the bill—to apply such amendments as he was advised ought to be made; and when the bill shall be so amended, it was due to the House and the country that it should be printed. The indiscrete haste with which we are trying to pass a great many bills here must be detrimental to the public good. He was willing that the bill should go through this session if it can be made acceptable and right. The motion he made yesterday was at the suggestion of Republican members; but they saw proper to take a different direction. What he then asked was on the principle of right and justice—looking far ahead of party. The words of Henry Clay were the impulse of the noblest principles ever uttered, when he said: "I'd rather be right than be President." He asked here only for a fair chance to see what we are voting for, and did not care a groat whether he was read out of the party or not. His stock in politics had never been very valuable, and if gentlemen in caucus see proper to turn him out, they are welcome to do so. He asked them no odds. He was obliged to the gentleman from Delaware for the information he tendered yesterday, on the point of Constitutional law, by which that gentleman concludes that the apportionment bills must pass at this session; and he apologized for the thick skull that excluded conviction from his understanding.

What if the Governor had forgotten to call this extra session?—what then would have become of this bill? But what was the object in keeping back the bill all these weeks, and just at the close of the session send one in here from the Senate with instructions to pass it at once; a bill of which a Senator who voted it has said: "It is an infamous measure and ought not to pass." Why did not the majority print the bill? Were they afraid to do it? Where did the bill come from? Did it come from the Committee on Elections? And he would have the gentleman so learned in constitutional lore to tell us what law authorizes the Senate to make this apportionment? He might be mistaken, but he had always thought it the duty of the representatives of the people to make the apportionment; and he understood it as a part of the oath of a Representative that, when upon this business, we should

make fair apportionment. It may be that he was mistaken. As an apology for himself, he could say to the gentleman from Marion that he was ignorant till last night that the daily papers were a source of information for this House. Till then, when that gentleman so informed him, he did not know that the papers were to be presented to this House for information. It might be all his ignorance; but he did not get the *Sentinel*, and perhaps that is as fair a source of information as we have. Now all he wanted is that this bill be properly amended and when so amended, that members of the House have opportunity to examine it, and be able to vote on it intelligently. If the majority will do so much that ends the difficulty. For himself he would stand here and talk till Saturday night (he did not talk very fast) before he would permit the bill to pass in its present shape; but from outside of a healthy organization he spoke not for others. But with reference to the passage of the bill at this session, if it should fail he would hold the Committee on Elections responsible for it. It was the duty of that committee to have reported an apportionment bill long ago. This was their fault, not his. But he was willing to withdraw opposition like this. Let it make no difference where the amendments come from, if they be such as ought to be made. Let us see it, and then we may pass the bill.

On motion of Mr. WILSON, of Ripley, there was a call of the House, which determined ninety-one members present.

On motion of Mr. BILLINGSLEY, further proceedings under the call of the House were dispensed with.

Mr. WALKER moved to lay Mr. Kimball's motion to refer on the table.

The motion was agreed to.

Mr. KIMBALL called for the reading of the bill.

The bill was read by the clerk, and the SPEAKER stated the question: Shall the bill pass to the third reading to-morrow?

Mr. KIMBALL was of the opinion that the bill should be amended. There was no disposition on the part of the majority to tyrannize over any one in opposition, whether he belonged to the party of the minority or the majority. He had come there to do his duty to the State and country. The majority had the right to do right. Believing that the action of his party always resulted in good to the whole country, it followed, in his opinion, that whatever the majority decided on must be right. He only asked that the State be fairly apportioned, and that the majority might be heard before being denounced. When the opposition were in power they had treated the minority as having no rights. The House was not acting under dictation in this matter. The bill had come from the Senate in a proper manner, and there had been nothing irregular about it. He understood it to be the duty of the Legislature to pass this bill at the present session, and speedy action was demanded for this reason alone.

He then submitted sundry amendments to the bill, which were read by the gentleman himself, the Reading Clerk at the same time reading from the bill, to show the effect the amendments would produce.

Mr. WILSON, of Ripley, moved the previous question on the amendments.

Mr. SHIRLEY hoped the gentleman would withdraw his motion, and not cut off all debate.

Mr. WOOLLEN hoped that Mr. Shirley would withdraw his objections.

Mr. WILSON adhered to the demand, and there was a second to the demand for the previous question, and under its pressure the amendments submitted by Mr. Kimball were adopted.

The SPEAKER again stated the question on the order for the engrossment of the amendments, and the third reading of the bill.

Mr. WOOLLEN moved that the bill as amended be laid on the table and printed. I desire, said he, to say a few words to the House. I believe that I have the intelligence to look at a bill and determine whether it is right or not; and I desire, when an important measure comes up to do so. I do not know anything about this bill. I have not attended any Republican caucus, and it has not been discussed in any Democratic caucus. It is certainly a most important bill. It involves the only question in legislation that can give to the minority the right to break a quorum. Now, if this measure is forced to the final vote at this time, it would be simply forcing a measure of the greatest importance of any that could come before us—and so far it would be doing something very unstatesmanlike. I do not believe that there ever was a measure that culminated in breaking a quorum in any legislative body but it was the fault of the majority. I do not excuse my own political party. The remark applies equally to both sides. But why cannot we, my friends, be so forbearing toward those who are not of our political sentiments that we can act with more discretion upon this question than those who have been here before? Can't we rise to higher plane? We are

but trancient beings—we live but a little while and pass away.

"We are all such stuff as dreams are made of,
And our little life is rounded with a sleep."

Why should we do injustice to the minority? Why pass this measure and give occasion to those coming after us to look upon our folly and regret it? Mr. Speaker I do not claim to speak for the Democratic party; for so far as I know that party stands with folded arms ready and willing that the historian may write down the record of her deeds whether right or wrong. The judgment of men in the future must determine whether or not her history has been glorious. This bill is not a strike at the Democratic party. That party is like a man that has sunk to the grave, and when the sods of the valley are over him; you can't injure it, because it is out of the way. But gentlemen have told me that this bill is a great wrong. I do not believe that the wrongs in the original bill have all been remedied by the amendments of the gentleman from Marion. But I say, let us have it printed, and see what it is. I think I see a propriety in carrying the consideration of this bill to the next session, I believe it will be better for the party and for the interests of the State. I speak not of my own party—having no party to serve. I am here to serve my country, and cut loose from everything but the right. He was there to serve his country and the right, and the right demanded greater deliberation; for if action was had now, the members must vote in ignorance. He would plead with the majority as earnestly and humbly as he would with God for the pardon of the sins of his life, to withhold their hands and not do this wrong. There is a lurking devil in us that constantly impels us to wrong actions; but the members, when they found this impulse striving within them should have the courage to say, "Get thee behind me." He conceded to the majority the right to take advantage of the situation. To the victors belong the spoils, but they should not be gathered at the cost of honor. This haste is undignified. Let us act upon consideration, and we shall feel the better for it. It had been contemplated by the framers of our State government that the Senate should stand as a wall against which the wave of hasty legislation should break; but the judgment of the public was that this House was now the conservative branch of the legislature. Let it do justice to itself and the people.

Mr. WILSON, of Ripley, said that if he could blot out remembrance of the history of legislation in this State, he could favor the printing of this bill. The majority had been more than just to the minority, and the provisions of the bill were as fair as the latter had a right to expect. The appeal for justice was only an appeal for delay. He did not believe the minority would stay in the next regular session if the bill should be passed over. The gentleman from Johnson (Mr. Woollen) might be honest in his declarations, but he was not disposed to trust the other members of the party. There were men in the majority who had stood like walls to protect the rights of the minority and yet the latter come here and ask for delay, which means the defeat of any final action on the subject. He was willing to do whatever was fair, but whatever was done must be done at this session if the majority discharge their duty. The majority in some cases have given the minority more than they are entitled to. For instance, Ripley, Ohio, and Switzerland have one Senator, Ripley, Decatur, and Rush have a joint Representative, and Ripley has a Representative alone.

Mr. HENDERSON thought they ought to have the opportunity to examine the bill. He saw no good reason why the bill should be pushed. It had been intimated that there may be resignations next term. He would quiet the nerves of gentlemen by assuring them that there was no sort of danger. He had no party to serve. Two years ago the minority resigned when the matter was not pushed as far as it is now. He then opposed the apportionment himself, and would say to the House now that there was no danger of it ever passing, and there was no intention that it should pass. For himself, he was outside of all political organizations. Two years ago he felt the shackles fall from his limbs. Now he would say to the majority that if he were an emissary sent here to kill them off as a party, nothing would more effectually do it for him than the passage of this apportionment bill, if it is wrong.

Mr. SHIRLEY desired to answer the gentleman from Ripley as to his objection to this bill. In my own district of Morgan and Johnson we are deprived of a representation which we have had for twelve years. Since the present apportionment was made two railroads have been built through those counties; and there is more reason now that it should remain with us than there was when it was made.

Mr. KIMBALL moved for an amendment of the pending motion (which was accepted by Mr. Woollen) that the bill be printed and laid on the desks of the members, and made the special order for ten o'clock to-

morrow morning, and that a committee of two be appointed to take charge of the printing of the bill.

And, accordingly, the order was taken by consent.

The SPEAKER appointed as committee, to supervise the printing, Messrs. Kimball and Woollen.

Mr. WOOLLEN moved to take up Senate bill 54, to divide the State into thirteen Congressional districts.

The motion was agreed to, and the bill was read by the clerk.

Mr. KIMBALL moved that the bill take the same course as the Legislative Apportionment bills.

The motion was agreed to.

NAMES ON THE BATTLE FLAGS.

Mr. KIMBALL offered a resolution condemning the course of Charles Sumner in relation to the erasing of names from battle flags, and approving the action of Congress in relation thereto.

It was adopted.

TIPPECANOE BATTLE GROUND.

A message was received from the Senate asking the return of the Senate bill No. 45, for the enclosure of the Tippecanoe battle ground, which had been transmitted to the House improperly engrossed and so passed, and asking the House to reconsider its action and concur in the properly engrossed bill.

The matter of the message from the Senate was immediately taken up, and, by unanimous consent, it was ordered that the vote on the final message of said Tippecanoe Battle Ground bill [S. 45] be taken as reconsidered and pending, and that the bill be returned to the Senate for correction. And subsequently when the bill was returned with the corrected engrossment, it was finally passed the House of Representatives—yeas 73, nays 10.

On motion of Mr. WYNN, the Senate bill No. 59, amending sections 12, 14, 18, and repealing section 15 of the act authorizing counties and townships to extend aid to railroads, was taken up, read and referred to the Committee on Railroads.

The Senate bill No. 115, to prevent extortionate charges and unjust discriminations in freights by railroad companies, was taken up, read and referred to the Committee on the Judiciary.

BANKING.

The bill [S. 2] to authorize and regulate the incorporation of banks of discount and deposit in the Senate of Indiana, was taken up and read.

On motion of Mr. BRANHAM, the restrictions were suspended and the bill read the second time.

Mr. BAKER desired to have the bill printed and laid over.

Mr. SATTERWHITE said the object of the bill is to provide that in case of the death of a partner, the business may be carried on, and not wound up, as now required for the organization of private banking companies as incorporated companies, so that the business may not be broken up by the death of any member. It provides, also, for regular publication of its condition. It does not compel any banking company to come under its provisions.

Mr. BRANHAM. The bill was introduced in the early part of the session, printed and laid on the desks of members. It has not been changed in the Senate.

Mr. SHIRLEY said the bill, or one like it, had been introduced in the House and referred to the Committee on Corporations. That committee had thoroughly examined the bill, and were unable to report favorably upon it. It made the stockholders liable only for an amount double the amount of stock held by them. There was not adequate security for depositors. The same provisions were incorporated in the National Banking law, but he did not regard that as any reason why this House should do an injustice. If forced to vote now, he must vote against the bill.

Mr. WOOLLEN submitted sundry amendments to the following effect:

SECTION —. The Auditor of State (with the approbation of the Governor) as often as he shall deem necessary or proper, shall appoint some suitable person or persons to investigate any bank or banking association incorporated under this act, who shall not be officers of any such association; and such person shall have power to make a thorough examination of the business and condition of such bank—to examine any officer or agent thereof under oath—and shall make a full report thereof to the Auditor; and such associations shall not be subject to any visitorial power, except as in this act provided, and such person shall receive $5 per day and $2 for every 25 miles travel—to be paid by the association by him examined.

SECTION —. Every such association shall make to the Auditor of State not less than five reports in each year, which reports shall exhibit the resources and liabilities of such institution and shall transmit the same to the Auditor within four days after the request or requisition from him; and every such report shall be published in some newspaper of the place where such association is located, at the expense of the association. Penalty, $100 a day for each day's delay of any such report, etc.

Mr. BRANHAM. We will accept the amendments. I have no interest whatever in this bill, neither has anybody in my section that I know of. The same thing was introduced by me in the early part of the session at the solicitation of personal friends. The whole object is to enable those banks, in case of the death of a partner, to carry on their business.

Mr. MILLER moved to refer the bill, as amended, to the Committee on Corporations.

On the motion of Mr. WILSON, of Ripley, it was laid on the table, and it was ordered that 200 copies thereof be printed.

EVANSVILLE GOVERNMENT BUILDINGS.

The bill [S. 87] granting the consent of the State to the purchase by the United States, for the purpose of public buildings, certain grounds in Evansville, was taken up and read.

On motion of Mr. BAKER, the restrictions were suspended, and the bill finally passed the House of Representatives—yeas 78, nays 0.

CONSTITUTION—CANAL DEBT SUBMISSION.

The bill [S. 159] to provide for the time of submission to the people the question of the Constitutional amendment heretofore proposed by joint resolution to prevent payment on account of canal certificates and internal improvement bonds arranged under the Butler bills of 1846 and 1847—it provides for the submission of this question on the 28th of January, 1873. It was passed to the second reading.

FELONIES OF TIMBER.

Mr. HATCH'S bill [H. R. 191] defining certain felonies, prescribing penalties therefor, and repealing, etc., was referred again to the Committee on Agriculture with instructions to strke out "felony" and insert "misdemeanor" in lieu.

COMMON SCHOOLS.

Mr. MELLETT (by unanimous consent) introduced a bill [H. R. 261] to amend the common school law. It raises the levy from 15 to 20 cents, and provides that the money thus collected shall be applied for tuition purposes only.

Referred to the Committee of the Whole and made the special order for eleven o'clock Thursday morning.

A message was received from the Senate transmitting for the signature of the Speaker enrolled Senate Act 45, for the enclosure of the Tippecanoe Battle Ground.

TRUSTEES—LEGALIZATION.

Mr. PEED'S bill [H. R. 185] to legalize the acts of the Trustees of the town of Huntingburg, Dubois county, was taken up on the third reading and finally passed the House of Representatives—yeas 76, nays 0.

On motion of Mr. BLOCHER the House took a recess till two o'clock p. m.

AFTERNOON SESSION.

The House reassembled at two o'clock.

Mr. CAUTHORN rose to a privileged question, and called for the reading of the indorsements upon the apportionment bills—House bill 260, and Senate bill 146. The indorsements were read, showing the second reading to-day.

Mr. CAUTHORN wanted to know by what authority the order of business had been suspended, and the bills read the second time.

The SPEAKER. By the order of the House.

Mr. KIMBALL explained that the order had been suspended on the motion of Mr. Branham.

PRESERVATION OF THE JOURNALS.

The SPEAKER announced the consideration of Mr. Cauthorn's bill [H. H. 167] to preserve the original manuscripts of the journals of the Senate and House of Representatives of the General Assembly, etc., it being on the third reading.

Mr. CAUTHORN demanded a call of the House, which proceeded, and determined a quorum—78 members present. The bill was finally passed the House of Representatives. Yeas 78, nays 0.

ATTACHMENT.

Mr. Brett's bill [H. R. 170] to amend the 157th and 664th sections of the the Practice Act of June 18, 1852, was taken up in order on the third reading [by giving creditors of absconding debtors, whose claims are not due at the time when such debtor absconds, the same rights as other creditors as to attachments.]

Mr. BRETT. I introduced this bill at the request of a gentleman of my town, and requested its reference to the Judiciary Committee. That committee gave it their attention and recommended its passage with amendments. I am informed that it is a meritorious bill. It is intended to protect those having claims against absconding debtors, and not due at the time of the running away. Under the present law parties whose claims are not due can't come in under attachments, while those whose demands are due can claim the whole.

The bill was finally passed the House of Representatives—yeas 84, nays 0.

Mr. WILLARD moved for the reconsideration of the vote of this morning by which the apportionment bill [S. 146] was to be printed.

Mr. CAUTHORN. I move to lay the motion to reconsider on the table.

The SPEAKER. The gentleman can't reach the order to print without recon-

sidering the vote by which the bill was made the special order.

DOWER.

Mr. WILSON, of Ripley, obtained unanimous consent to return from the Committee on the Organization of Courts his bill [H. R. 214] to amend sections 25 and 26 of the act of May 14, 1852, to regulate descents and apportionments of estates, with an amendment (clerical), recommending its passage—it being on the third reading.

The amendment was adopted.

Mr. W. said: The law now provides that if the husband dies without children, the property goes to the wife; and if the widow dies the week after the property goes to her relatives. The same law also applies to the wife. In such cases it takes the property away from the blood of the original owner. This bill makes ample provision for the widow or the surviving husband—giving them $10,000 absolutely, where the estate exceeds that amount—and one-third of the remainder.

Mr. LENFESTY doubted about that feature of the bill which gives the two-thirds—less the $10,000 — to the brothers and sisters. I believe that when a man dies seized of property, it should go to his family. [A voice—"If he have children it all goes to them."]

The bill was finally passed the House of Representatives—yeas, 79; nays, 6.

Mr. WESNER, by unanimous consent, submitted a proposition for a clause in the specific bill to pay Judges for holding adjourned terms of Court within the last two years, appropriating $3,500 for that object; and providing that no such Judge shall receive more than $10 per day.

It was referred to the Committee on Ways and Means.

CRIMINAL PRACTICE.

Mr. WILSON, of Ripley's, bill [H. R. 178] to amend section 1 of the act of December 20, 1865, to amend the 77th section of the criminal practice act of June 17, 1852, was taken up in order and passed the final reading—yeas, 74; nays, 2.

Mr. WILSON, of Ripley's, bill [H. R. 179] to amend section 1 of the act of February 2, 1855, to amend the practice act of June 18, 1852, was taken up. [It provides that where newspaper publication of the sale of real estate is omitted, the sheriff shall state the cause in his report; also, where the publisher refuses, and where there is no newspaper in the county;—to prevent exorbitant charges, and providing that the newspaper shall be of general circulation, and shall be printed and published in the county.]

Messrs. GIVAN and COBB objected to it as either not sufficiently explicit or unnecessary.

The bill was rejected on the second reading.

TOWNSHIPS—TOWNS.

Mr. SATTERWHITE'S bill [H. R. 187] to prohibit township trustees from levying tax on the inhabitants of incorporated towns, repealing, etc., was taken up on the third reading.

Mr. S. had introduced this bill at the request of citizens of an incorporated town in his county. It grows out of the fact, that some time ago the township trustee requested the auditor of Morgan County to place on the tax duplicate for school and road purposes the property of the citizens of the town of Martinsville, and the auditor refused to do so, because the said citizens' property were already assessed for school and road purposes. Upon this, suit was brought in the Circuit Court and the decision was against the auditor, and it was appealed to the Supreme Court, where the case is now pending. This bill provides that, hereafter, there shall be equal taxation in the township, within and without the town corporation; that the township trustee shall not take the corporation assessments on property which the corporation has taxed by its own authority.

Mr. MILLER. The bill should provide that the town itself shall be acting under its corporate authorities.

Mr. SHIRLEY, also took exceptions to the bill, and it was rejected—yeas 14; nays, 64.

CALUMET FEEDER DAM.

A message was received from the Senate, transmitting a concurrent resolution which had been adopted on the part of that branch of the General Assembly, directing the Attorney General to take such steps as he may see fit, to secure the removal of the dam in Calumet river, at Blue Island, Illinois, and authorizing the Governor to draw his warrant for defraying necessary expenses.

SERVICE OF EXECUTIONS.

Mr. SHIRLEY'S bill [H. R. 188] to amend section 433 of the practice act of June 18, 1852, (concerning service of executions,) was taken up on the third reading.

Mr. SHIRLEY. My amendment here is in regard to the duties of the Sheriff when he receives an execution. As the law now is, he has "a reasonable time" to proceed to the sale, and some say one time and some another is a reasonable time. I hold that thirty days is a reasonable time

for him to make service of the writ. A constable is required to make service and return in thirty days. Now, I make the sheriff's time the same as the constable's—except in cases where the population of the county exceeds 20,000—in such cases I make it 50 days, unless he is otherwise directed by the judge or the plaintiff.

The bill was finally passed the House of Representatives—yeas, 71; nays, 12.

GIRLS AND WOMEN REFORMATORY.

Mr. BAXTER'S bill [H. R. 210] to amend section 20 of the act of May 13, 1869, to establish a female prison or reformatory, for girls and women, (changing the age of admission from eighteen to sixteen years,) was taken up and finally passed the House of Representatives—yeas, 79; nays, 0.

Mr. BAXTER'S bill [H. R. 211] appropriating $50,000 for the Female Reformatory Prison Buildings, was taken up on the third reading.

Mr. B. said: Four years ago the Legislature decided that a Female Reformatory Institution should be erected near this city, and the estimated cost of it was, I think, about $125,000; and they appropriated $50,000 towards this object. With this money the building has been begun, and it is now standing in an unfinished condition. It was designed for a prison as well as a Reformitory. I visited the building myself, and went over their estimates for its completion with a great deal of care; for I considered that we have a great many appropriations to make, and I found that it would cost $70,000 to complete the building and enclose the grounds, and that, by dispensing with the fencing and grading, the very lowest estimate to complete the building would require an appropriation of $50,000. With this sum we can have a prison that will accommodate about three hundred prisoners, in a place where they may be reformed, cared for in the spirit which the constitution requires shall pervade our prison laws.

Mr. RUMSEY considered the importance of this bill in connection with the Governor's recommendation and reasoning thereon.

The bill was finally passed the House of Representatives—yeas 74, nays 4.

COSTS IN CHANGE OF VENUE—PRO TEM. JUDGE.

Mr. WILSON, of Ripley's bill [H. R. 218] to amend section 208 of the practice act of June 18, '52, was taken up on the third reading, making counties from which a change of venue is taken responsible for the costs, and allowing the judge to appoint an attorney to hear the case instead of calling another judge.

Mr. OFFUTT. I gather from the reading of the bill by the Clerk, that, instead of compelling the judge to call another judge to hold the term, he may call any reputable attorney. If that is the amendment, I think it a good one and that it ought to pass.

The bill was finally passed the House of Representatives—yeas, 61; nays, 13.

VOLUNTARY ASSOCIATIONS—WILLS.

On motion of Mr. KIMBALL, the bill [S. 3] to amend section 4 of the act concerning the organization and perpetuity of voluntary associations, and repealing the act of February 12, 1855, and repealing each act repealed by said act, and to authorize wills and devises to be made in compliance with the provisions of this act, was taken up on the third reading.

Mr. LENFESTY. This Senate bill has received a favorable report from the Committee on Corporations. It is to admit of pay to the officers of these institutions and to empower them to contract, to lend and borrow money, etc.

The bill was finally passed the House of Representatives—yeas, 65; nays, 9.

Mr. WILLARD asked and obtained leave of absence till Friday noon.

BANK TAX FOR MUNICIPALITIES.

The bill [S. —] to provide for the assessment (for municipal purposes) of taxes on shares on banks and the bank stock of all banks doing business in this State, was taken up.

Mr. COBB. This bill covers almost the same ground of a bill we have already passed, and it seems to me that we ought to have all our assessment and collection laws in one statute. There is another objection: In this it is provided that it shall take effect on the first of May; in the other it is provided that it shall take effect on the first of April. Let us try to get along with the act we have already passed.

Mr. GIVAN. I do not understand that the assessment act passed at this session comprehends the object intended by this bill. That assessment law provides for the assessments for State and county purposes. The assessments for municipal purposes are made necessarily under different laws from those for State and county purposes. Section 70 of the assessment act provides nothing for this purpose, and it might be construed so as to prevent the taxation of bank shares for

municipal purposes. It simply provides that nothing shall prevent such taxation; but it does not provide how these bank shares shall be assessed, whilst this bill provides the mode and manner of these assessments.

On motion of Mr. BRANHAM, it was referred to the Committee on Ways and Means.

DRAINAGE.

Mr. MARTIN'S Drainage bill [H. R. 76] was taken up on the third reading, and pending its consideration—

The House adjourned.

THE

BREVIER LEGISLATIVE REPORTS.

THIRTEENTH VOLUME.

INDIANA LEGISLATURE.

IN SENATE.

THURSDAY, December 19, 1872.

The Senate met pursuant to adjournment Prayer was offered by the Rev. Mr Asbury, pastor of Ames M. E. Church,

Mr. O'BRIEN moved for the printing of 200 copies of a circular letter to the Clerks of Courts, prepared in pursuance of a resolution of the Senate, asking for information to aid the Committee on Organization of Courts to properly prepare a bill for the reorganization of the Judiciary of the State.

The motion was agreed to.

MADISON CRIMINAL COURT.

Mr. O'BRIEN also returned the bill [H. R. 72] creating the 29th Judicial Circuit (Jefferson Criminal Court) with a favorable report thereon from the majority of the committee.

Mr GLESSNER presented a minority report recommending that the bill lie on the table.

Mr. ROSEBRUGH said that he could not vote to re-establish this Court, unless he was satisfied that it was the desire of the people of Jefferson county. He found that petitions had been received remonstrating against it, signed by 1,370 taxpayers of that county, while the petitions in favor of the measure bore but 261 signatures. From this and such other information as he could obtain, he felt constrained to oppose the bill, believing that it was contrary to the wishes of the people of the county.

Mr. STEELE, who was one of the committee, said the majority of the committee became satisfied that a majority of the taxpayers of Jefferson county did desire the establishment of the court and their report was based on this belief.

After some further discussion Mr. GLESSNER moved that the whole matter be indefinitely postponed.

Mr. FRIEDLEY, of Scott, said he was informed by unimpeachable witnesses that a great necessity exist for the re-establishment of this Criminal Circuit in Jefferson county. The criminal cases now occupy a large part of the time of the present courts to the great injury of parties in civil cases.

Mr. BROWN moved to lay the whole subject on the table.

The motion was agreed to.

Mr. ORR, from the Committee on County and Township Business, reported back the bill [H. R. 148] to preventy county, township and city officers from being concerned in contracts with the county, township or city, or town, with an amendment making the provisions apply also to State officers.

The report was concurred in.

THE THIRD CIRCUIT.

Mr. CAVE, by leave of the Senate, offered a resolution reciting that the bill [H. R. 257] changing Third Judicial Circuit, passed the Senate under a misapprehension of facts, and recalling the same from the Governor. He said the bill was passed without giving him any opportunity to examine it. The result of the bill was to

leave Pike and Dubois counties out of all Judicial Circuits, out in the cold, in fact.

Mr. WILLIAMS also had no opportunity to examine the bill before its passage.

Mr. GOODING resisted the adoption of the resolution and contended that the bill can do no harm as it is a temporary thing, and as it is proposed to revise the judicial system of the State at the regular session, and there will be no court in the gentleman's county for six months to come.

Mr. CAVE understood the object of this bill to be to legislate Judge Laird out of the district.

Mr. DWIGGINS moved to lay the resolution on the table.

The motion was agreed to—yeas, 22; nays, 18.

THE BURSON CASE.

Mr. O'BRIEN, from the Committee on Claims, to which was referred the claim of Charles W. Stagg for $1,344, for taking shorthand notes on the Burson contested election case last session, reported in favor of allowing him $880.

It was referred to the Committee on Ways and Means, with instructions to incorporate the same in the specific Appropriation bill.

LEGISLATIVE JOURNALS.

Mr. CHAPMAN, by leave, introduced a bill [S. 105] to regulate certain matters of legislative practice in the General Assembly. Providing for the appointment of a committee at each session of the General Assembly to examine and report for correction any errors in the minutes of proceedings in either House of a committee of five from each House, of which the President and Speaker shall be chairmen, for the purpose of examining and correcting the journal when its reading is dispensed with in the House, the committee to report to the House all mistakes discovered.

It was read the first time.

On his motion the Constitutional restriction was dispensed with, and the bill was read by title for the second reading.

On the further motion of Mr. CHAPMAN, the bill was engrossed, read the third time and passed by yeas 35, nays 0.

FEES AND SALARIES.

Mr. RHODES, by leave, from the Committee on Fees and Salaries, returned the bill [S. 25] to repeal the fee and salary act, with a recommendation that it lie on the table.

The report was concurred in.

COUNTY PROPERTY.

Mr. SCOTT, by leave, introduced a bill [S. 166] for an act regulating the sale of county property and the letting and building of county buildings and the sale of county property. [Prohibiting County Commissioners from making any contract for the erection of public buildings or bridges until plans and specifications have been filed with the County Auditor, open to public inspection, nor until bids for such work have been advertised for, when it shall be let to the lowest bidder, who shall be required to give bonds for the faithful performance of his contract. It also provides that County Commissioners shall not sell any public property without first advertising the sale.]

It was read the second time.

He moved for a dispensation of the constitutional restriction that the bill may be pressed to the final reading now.

Objection being made—

Mr. SCOTT urged the adoption of his motion, reciting cases where public property has been frittered away for want of some legal restriction such as is proposed in this bill. He said, as the law now stands the County Commissioners may meet in the morning and sell off all the property of the county before noon at just such prices as they choose, and unless actual fraud is proved, the people have no remedy. They were being robbed and plundered in his county by a ring whose members are growing rich at their expense.

Pending action on the motion, the Senate adjourned until two o'clock.

AFTERNOON SESSION.

The Senate met pursuant to adjournment.

The question pending being on the motion to dispense with the constitutional rule, in order that the bill may be pressed to its final vote in the Senate, it was agreed to.—Yeas, 35; nays, 4.

Accordingly, the bill was read by title for the second reading.

Mr. SMITH moved to amend the bill so as to include public fences and monuments.

It was agreed to.

Mr. DWIGGINS moved to amend the bill so that the provisions of the bill shall not apply to buildings or bridges costing less than $500.

It was agreed to.

Mr. DWIGGINS also offered an amendment providing that the sale or letting of contracts for the building of public works, etc., be advertised for six weeks instead of ninety days.

This amendment was also agreed to.

On motion of Mr. SCOTT, the bill was considered as engrossed, read the third time and passed. Yeas 41, nays 0.

SOLDIERS' WIDOWS AND ORPHANS.

Mr. GREGG, by leave, offered a resolution instructing our Senators in Congress to favor the passage of an act allowing widows and orphans of soldiers to acquire public lands as homesteads.

It was adopted. Yeas 43, nays 0.

LEGISLATIVE APPORTIONMENT BILL.

Mr. DWIGGINS moved, that the message from the House just reported informing the Senate of the passage of the bill [S. 146] redistricting the State for Senatorial and Representative purposes, with amendments thereto, be read.

The motion was agreed to by yeas 27, nays 18.

Mr. DWIGGINS moved, that the Senate concur in the House amendments, and upon that motion he demanded the previous question.

Mr. WILLIAMS demanded a call of the Senate.

The PRESIDENT decided that a demand for the call of the Senate is not in order pending a motion for the previous question.

Mr. WILLIAMS desired to appeal from the decision of the chair. The question being "shall the main question be now put?"

It was ordered. Yeas 27, nays 18.

Pending the roll-call—

Mr. HARNEY, in explanation of his vote, when his name was called, declared these proceedings were not fair because this is a great question—a question that will affect the State for several years to come. We ask only to fix the record correctly. All the minority ask and all they have asked is, that this question may be fairly defined and well put so that when this case is appealed to the country the country will not be at a loss to determine the issue. For the reason that this motion cuts off that privilege, I cannot vote for it. Although I am not willing to counsel any factious opposition, the right is accorded to all men that their record may be fixed so that they may appeal to that great tribunal that will settle all questions. And this is certainly right and proper. It is a right which is accorded to the murderer, whose hands are yet reeking with the blood of his victim. I appeal to Senators upon the floor—gentlemen who ask favors and we award them—

Mr. STEELE, (interrupting). I rise to a point of order.

The PRESIDENT. I hope the Senator will confine his remarks to an explanation of the reasons for his vote.

Mr. HARNEY. If I am not doing so it is from a lack of ability on my part, which, I think you will excuse. But I say it is right that the question upon which our appeal is made, shall be stated fair and clear. I hope no gentleman will refuse to allow us that simple right. Gentlemen need not fear the Opposition will assume a revolutionary form. They can, with safety to themselves, accord this simple right. For these reasons I oppose seconding the previous question at this time, because it cuts off all privileges of this kind; therefore, I vote "no."

The vote was then announced as above.

So the Senate seconded the demand for the previous question.

The question being on curcurring in the amendments of the House, they were concurred in—yeas, 27; nays, 18, as follows:

YEAS—Messrs. Beardsley, Beeson, Brown, Bunyan, Chapman, Collett, Daggy, Dwiggins, Friedley, Gooding, Haworth, Hough, Howard, Hubbard, Miller, Neff, O'Brien, Oliver, Orr, Rhodes, Scott, Sleeth, Steele, Taylor, Thompson, Wadge, Mr. President—27.

NAYS—Messrs. Beggs, Bird, Boone, Bowman, Carnahan, Cave, Francisco, Glessner, Gregg, Harney, Ringo, Rosebrugh, Sarnighausen, Slater, Smith, Stroud, Williams and Winterbotham—18.

Pending the roll call—

Mr. WILLIAMS, when his name was called, in explanation of his vote adduced numerous instances in which, he said, injustice had been done the minority. For instance, the counties of Sullivan and Knox, with a population of 9,254, get no more representation than Lawrence and Munroe, with 6,648—3000 less, or very near it. Clarke and Floyd, with a population of 9,886, have one Senator and two Representatives, while Scott, Jennings and Jefferson, with much less population have one Senator and three Representatives.

Mr. DWIGGIGS, (interposing.) Does the Senator take the publication in the Sentinel or the bill?

Mr. WILLIAMS. I take the bill. It would take all the school masters in the State of Indiana to tell what representation Scott, Jennings, Jefferson, Decatur, Rush, Fayette and Union have got. I defy any Senator on this floor to tell me what representation they have. Yet we are asked to vote for this bill.

There is another objection to this bill. There are the counties of Shelby and Johnson. Shelby is taken from the county of Marion, so kindly, and the county of Morgan is put in its stead. Shelby and Johnson have 9,074 population by the census taken for that purpose, and then there is Parke and Vermillion, and how much do

you suppose they get with 6,305 population—3,000 less? They get the same representation. Marshall, Fulton, and Pulaski have 9,164, and not very far from that spot is a place called Lake and Porter, with a population of 6,200, which gets the samd representation, with the exception that Marshall has a float with St. Joseph. Allen, Wells and Adams, get three Senators and two Representatives with a population equal to the county of Marion, and what does it get. Who can figure up what it gets? I say it gets eight—three more than the counties of Allen, Adams and Wells. I vote "no."

The vote was then announced as above recorded.

So the bill [S. 146] apportioning the Senators and Representatives among the several counties of the State, was passed the Senate as amended yesterday by the House of Representatives, as follows:

SEC. 2. That the said Senators shall be apportioned among the several counties as follows, to wit:

The counties of Posey and Gibson shall elect 1; Vanderburg, 1; Warwick and Pike, 1; Spencer and Perry, 1; Sullivan and Knox, 1; Daviess and Greene, 1; Martin, Orange and Dubois, 1; Crawford and Harrison, 1; Floyd and Clark, 1; Washington and Jackson, 1; Lawrence and Monroe, 1; Brown and Bartholomew, 1; Scott, Jennings and Decatur, 1; Jefferson, 1; Switzerland, Ohio and Ripley, 1; Decatur and Rush, 1; Vigo, 1; Owen and Clay, 1; Shelby and Johnson, 1; Putnam and Hendricks, 1; Parke and Vermillion, 1; Fountain and Warren, 1; Tippecanoe, 1; Benton, Newton, Jasper and White, 1; Lake and Porter, 1; Laporte 1; St. Joseph and Starke, 1; Marshall, Fulton and Pulaski, 1; Kosciusko and Whitley, 1; Elkhart, 1; Noble and Lagrange, 1; Steuben and DeKalb, 1; Allen, 1; Allen, Adams and Wells, 1; Huntington and Wabash, 1; Grant, Blackford and Jay, 1; Miami and Howard, 1; Cass and Carroll, 1; Hamilton and Tipton, 1; Boone and Clinton, 1; Madison and Delaware, 1; Randolph, 1; Wayne, 1; Henry and Hancock, 1; Fayette, Union and Rush, 1; Marion, 2; Marion and Morgan, 1; Dearborn and Franklin, 1; Montgomery, 1.

SECTION 3. That the Representatives shall be apportioned among the several counties of the State in the follow ng manner, to wit:

The county of Posey shall elect 1; Gibson, 1; Vanderburg, 2; Warrick, 1; Pike, 1; Spencer, 1; Perry, 1; Sullivan, 1; Knox, 1; Daviess, 1; Greene, 1; Martin and Dubois, 1; Crawford and Orange, 1; Harrison, 1; Floyd, 1; Clark, 1; Washington, 1; Jackson, 1; Lawrence, 1; Monroe, 1; Brown and Bartholomew, 1; Jennings, 1; Scott, Jennings and Jefferson, 1; Jefferson, 1; Ripley, Decatur and Rush, 1; Ripley, 1; Switzerland and Ohio, 1; Decatur, 1; Rush, 1; Vigo, 2; Owen, 1; Clay, 1; Morgan, 1; Johnson, 1; Putnam, 1; Hendricks, 1; Putnam and Hendricks, 1; Parke, 1; Vermillion, 1; Parke and Montgomery, 1; Warren, 1; Fountain, 1; Tippecanoe, 2; Benton and Newton, 1; Jasper and White, 1; Lake, 1; Porter, 1; Laporte, 1; St. Joseph, 1; Marshall and St. Joseph, 1; Kosciusko and Fulton, 1; Fulton, Pulaski and Starke, 1; Kosciusko, 1; Whitley, 1; Elkhart, 1; Noble, 1; Lagrange, 1; Steuben, 1; De Kalb, 1; Allen, 2; Adams and Wells, 1; Huntington, 1; Wabash, 1; Huntington and Wabash, 1; Grant and Blackford, 1, Jay, 1; Miami, 1; Howard, 1; Cass, 1; Carroll, 1; Hamilton, 1; Hamilton and Tipton, 1; Clinton, 1; Boone, 1; Montgomery, 1; Madison, 1; Delaware, 1; Jay and Delaware, 1; Randolph, 1; Wayne, 2; Henry, 1; Hancock, 1; Henry and Madison, 1; Fayette and Union, 1; Marion, 4; Marion and Shelby, 1; Shelby, 1; Dearborn, 1; Franklin, 1; Noble and Elkhart, 1; St. Joseph, 1; Miami and Howard, 1.

Mr. NEFF, by leave, reported from the Committee favorably on Claims for the Daily Evening Commercial, furnished last session $30, which was referred to the Committee on Finance for incorporation in the specific appropriation bill.

Mr. WILLIAMS now submitted another appeal from the decision of the chair, signed by himself and Mr. Carnahan, reciting that when Mr. DWIGGINS made a demand for the previous question on concurring in the House amendments to the bill [S. 146], the Senator from Knox demanded a call of the Senate which was decided out of order by the chair. They appeal from this decision of the chair.

The PRESIDENT. The appeal, as I understand it, don't recite the facts. The motion was made by the Senator from Jasper, (Mr. Dwiggins) as therein recited, and the chair rose for the purpose of stating the question to the Senate as it was the duty of the chair, the Senator from Knox (Mr. Williams) demanded a call of the Senate. The chair decided that out of order as it was the duty of the chair to state the question to the Senate before any other matter was entertained.

Mr. DWIGGINS and Mr. WILLIAMS addressed the chair.

Mr. WILLIAMS. The chair can't deal in that way with me.

Mr. DWIGGINS. I have the floor.

Mr. WILLIAMS. I don't think that the Senator from Jasper (Mr. Dwiggins) has the floor.

The PRESIDENT. I have decided that the Senator from Jasper has the floor.

Mr. WILLIAMS, I demand that the question on the appeal be put.

The PRESIDENT. The Senator from Jasper has the floor. I am not going to put the question on the appeal until it recites the facts.

Mr. WILLIAMS. It does recite the facts and the chair knows it.

The PRESIDENT. The Senator from Knox will take his seat.

Mr. WILLIAMS. The Senator from Knox will not be ruled down in that way.

Mr. DWIGGINS. I want the appeal presented to the Senate when the facts are properly set forth. The facts are these: The clerk of the House reported a message and I moved to take up that message and it was decided in the affirmative. The Secretary read the amendments, and this appeal states that I moved to take up the bill. I didn't make any such motion. I moved to concur in the amendments and demanded the previous question, and that was concurred in.

Mr. ORR. I rise to a point of order. What is before the Senate?

Mr. PRESIDENT. There is a paper sent up, purporting to be an appeal from the decision of the chair.

Mr. WILLIAMS. It contains the facts in the case.

Mr. ORR. I understand that the President wouldn't recognize it.

Mr. DWIGGINS. I desire that the question shall be presented as soon as it is properly brought forward and recites the facts. The Senate will agree that it does not because I—

Mr. WILLIAMS (interposing). I call the Senator to order. The chair has decided not to entertain the appeal. I demand that the appeal shall be put on the journal.

Mr. BROWN. I don't believe there is anything in our rules upon the subject of appeals, but parliamentary law recognizes the right of a member to appeal from a decision of the Chair, and I don't think we ought to criticise the language very closely. If an appeal does not recite the facts that is one reason why it ought not to be sustained. We had better let the appeal go upon the records and take a vote upon it. There is not enough in a matter of this kind to have a serious contention about. I don't think it sets out the facts as it ought to, but I think the Chair should put the question on the appeal to the Senate.

The PRESIDENT. At the request of Senators I will state the question: "Shall the decision of the Chair stand as the judgment of the Senate?"

Mr. WILLIAMS. Will the Chair allow me to read the parliamentary law on the subject. I read from Jefferson's Manual, page 144. [Mr. W. reads.] Now, if Senators can sustain the decision of the Chair in the face of this parliamentary law, they can do it—that's all I have to say about it.

Mr. BROWN. The Senator from Knox (Mr. Williams) is a good parliamentarian and generally correct, but this time he is very far from being correct. The Senator reads from a work on parliamentary law based on the rules of the House of Representatives of the United States. They are not the rules of this body. There is nothing in the rules of this body upon the subject of a call of the House. The general parliamentary law is that when a presiding officer decides a question any two members thinking the decision not right may take an appeal; but the Senator has no right to demand a call of the Senate. The law of parliament never did give one member the right to demand a call of the House. The decision of the Chair was right, and inasmuch as no good is to be accomplished I move that the appeal lie on the table.

The motion was agreed to by yeas —, nays —.

CLAIMS.

Mr. NEFF, from the Committee on Claims, returned the claim of T. A. Goodwin for $24 60 for copies of the American furnished last session.

Also, the claim of the Senate Committee on Prisons in making two trips to the Southern Prison last session, allowing each $30 for expenses incurred.

Also, the claim of the Committee on Military Affairs for going to Dayton, Ohio, last session, of $30 each.

These claims were referred to the Committee on Finance, with instructions to incorporate the same in the specific appropriation bill.

FEMALE PRISON.

On motion by Mr. BROWN, the bill [H. R. 211] supplemental to the act establishing the Female Reformatory Institution—appropriating $50.000 for finishing and furnishing the buildings, and putting in order the grounds—was read the first time.

Mr. CARNAHAN, from the Committee on Corporations, returned the bill [S. 122] to legalize appropriations made previous to May 12, 1869, in aid of railroads by County Commissioners, recommending its passage.

The report was concurred in.

TWENTY-SECOND COMMON PLEAS COURT.

Mr. ROSEBRUGH, by leave, introduced a bill [S. 167] fixing the times of holding the Court of Common Pleas in Ripley county, which was read the first time.

On his further motion, the constitutional restriction was dispensed with. Yeas 39, nays 3.

The bill was read by title for the second reading, by sections the third time, and passed. Yeas 45. nays 0.

COMMITTEE REPORTS.

Mr. BROWN, by leave, returned from the Judiciary Committee the Wayne county county seat bill [H. R. 227] with a recommendation that it go upon the files.

Also that the bill [S. 134] to give the Prosecuting Attorney the opening and close in criminal cases, be laid on the table because a House Bill pending accomplishes the same result.

Also that the bill [S. 161] upon the subject of postponing the collection of rail-

road taxes, in certain cases, be laid on the table, because the same is covered by other bills now pending.

Also that the bill [S. 180] to revise, simplify and abridge the rules of pleading and practice in civil cases, be passed.

Also that the bill [H. R. 385] to authorize aid to railroads by counties and townships, be passed.

Also that the bill [H. R. 7] providing that Justices of the Peace shall have original and exclusive jurisdiction in certain cases of misdemeanors be laid on the table.

The reports were concurred in.

PRACTICE IN CRIMINAL CASES.

Mr. BROWN, from the same Committee, reported back the bill [H. R. 137] to revise, simplify and abridge the rules of practice and pleading in certain cases, with amendments, the majority of the committee recommending that the bill be laid on the table, and the minority that after the adoption of the amendments the bill be passed. The amendments provide that in criminal cases the prosecuting attorney shall have the opening and close of the argument, except that by consent of both parties the argument may be waived. The prosecuting attorney shall disclose in his opening all the points relied on in the case, and if, in the closing, he refer to any new point or fact not disclosed in the opening, the defendant or his counsel shall have the right of replying thereto, which reply shall close the argument in the case. If the prosecuting attorney shall refuse to open the argument, the defendant or his counsel may then argue the case, and that shall be all the argument allowed in the case. At the conclusion of the argument the Court shall charge the jury, which charge, upon the request of either party, made before the commencement of the argument, shall be in writing. If either party desire special instructions to the jury, they shall be reduced to writing and delivered to the Court before the commencement of the argument.

Mr. STEELE moved to lay the whole subject on the table.

The motion was agreed to.

HUNTING AND SHOOTING.

Mr. BROWN, from the Committee on the Judiciary, returned the hunting and shooting—on enclosed lands—bill, with amendments, inserting the words "by the consent of" the owner, prosecutions may be instituted.

It was concurred in.

Mr. BROWN, by direction of the committee, offered a resolution requiring the keeping of the committee rooms on Judiciary railroads and Federal relations during the recess, by the door-keeper.

It was adopted.

ORPHANS' HOME.

On motion of Mr. THOMPSON, the bill [S. 48] changing the name of the Soldiers' Home, at Knightstown, Rush county, so it shall be called the Indiana Soldiers' Orphans' Home, and making appropriations for new buildings, was taken up and read the third time.

Mr. THOMPSON, (the Chairman of the Committee on Benevolent Institutions) spoke as follows:

Mr. President: Upon an invitation from the Superintendent and Trustees of the Soldiers' Orphans' Home, situated at Knightstown Springs, a part of your Committee on Benevolent Institutions, in company with other members of the Legislature, visited the Home and desire to lay before the Senate the results of their observations. There are two hundred and twenty-five children in this Home. They are from all parts of the State, and are all the children of soldiers who fell while fighting on the battle fields during our late civil war, or died in military prisons or in hospitals of diseases contracted while in the army, or whose fathers, crippled for life are in some of the National Soldiers' Homes. Their ages range from two years of age to fourteen. The children appeared well cared for—being well clad, well fed, and very happy. Those of them, who were old enough, are employed in mechanic shops at very light work, or are in school certain portions of the day. Young and old exhibitited a commendable ambition in prosecuting the duties assigned them in the school rooms and in the workshops. Among the most noticeable and praiseworthy features of those children, were there excellent order and strict attention to the government of the institution and their very affectionate regard for the Superintendent and their teachers—whom young and old appeared to treat as parents. The whole government of this Home appears to be perfect and executed in a paternal manner that commands our unqualified admiration. These grounds on which the Home is established were a gift to the State by a few generous souls for the purposes of a home for soldiers and their children. The soldiers who were here, who have not died, have been removed to Dayton, to the National Home, leaving only these children to be cared for. The main building is one of the most substantial, convenient and airy buildings in the State, securing plenty of light and ven-

fication in every room. The Trustees take the liveliest interest in the children. Among others, Mr. Hannaman, who devotes much of his attention without reference to looking after the welfare of these helpless little ones, deserves the gratitude of every friend to humanity.

Mr. HARNEY said that while he was in favor of an institution for the care of soldiers' orphans, he did not believe that the State was a grand eleemosynary institution. The number of soldiers' orphans would be constantly decreasing, and therefore he did not see the necessity of increasing the capacity of the institution. The main feature of the bill is the provision for the care of orphans other than soldiers' orphans at an increased charge of from two to three dollars per week. He thought the County Commissioners could care for the orphans at less than the latter figure, and did not believe the effort to establish a State Orphan Asylum to be sustained by State taxation would succeed. He was in favor of maintaining the institution as it now is, but not of extending its era. He disliked to oppose anything that looked like benevolence, but did not think this a proper time to increase expenses. It is a time for economy and retrenchment. Few of us can afford to increase the expenses of our domestic affairs fifty per cent., as is proposed in this bill to do by this institution. The picture the Senator (Mr. Thompson) has drawn is calculated to move our feelings and sympathies, but the money proposed to be appropriated is drawn by taxation from the poor and from all classes of society, and it is our duty to exercise great care in expending it.

Mr. SLEETH said the provisions of the bill were: first, that soldiers' orphans shall be cared for; and second, after this class is provided for, if there is room left, total orphans may be admitted on the application of the commissioners of the county from which they come, provided their expenses are paid, so that no expense will be entailed upon the State thereby. In a few years the orphans of soldiers will have grown up and passed out from the institution. The building will still be left, and the question is whether total orphans in the several counties of the State shall be sent to the county poor house or to this institution, where they will be taught a trade and subjected to better influences and receive better care than they possibly can at a poor house. As no expense will be entailed upon the State by the bill, and as the orphans will undoubtedly be better cared for there than elsewhere, he could see no objections to the passage of the bill.

Mr. STEELE inquired the necessity for the increased charge of one dollar per week for the keeping of the children at the Home.

Mr. THOMPSON responded that the expenses of the Home had heretofore been partly borne by private donations.

Mr. NEFF said he did not believe it should be the policy of the people of Indiana to barely keep the souls and bodies of these orphans together. If we call it a Home, let us make it a home, by making a reasonable appropriation for its maintenance.

The bill was passed the third and last reading by yeas 42, nays 2.

The following is a synopsis of the bill [S. 48] to amend an act entitled "An act to establish a home for disabled Indiana soldiers, their orphans and Widows, at Knightstown Springs." Approved, March 11, 1867, and an act supplemental thereto, approved, May, 14, 1869.

Section 1 of said act of March 11, 1867, provides for the admission of disabled Indiana soldiers, and their orphans and widows.

Section 1 of this bill repeals all that part referring to the admission of Soldiers and Widows, and provides for the admission of Orphans only, and changes the name to "Indiana Soldiers' Orphans' Home."

Section 7 of said act of March 11, 1867, defines what class of Soldiers, Orphans and Widows shall be admitted.

Section 2 of this bill repeals all that part of Section 7 relating to the admission of Soldiers and Widows, and provides that orphans of deceased soldiers under twelve years of age, without father or mother, and with mother living, shall be admitted, provided that no one who has the means of support shall be admitted.

Section 3 of this bill provides that when there shall be room in the Home not required for Soldiers Orphans, that other total orphan children shall be admitted upon application of County Commissioners, approved by Board of Trustees of the Home.

Section 2 of Supplemental act, approved May 14, 1869, provides for the payment of $2 00 per week for each inmate and person for current expenses, and how it shall be paid.

Section 4 of this bill provides for the payment of $3 00 per week for each inmate and person for current expenses, payable on the order of the Superintendent, indorsed by the Governor, the Auditor shall draw his warrant on the Treasurer for the amount out of all moneys in the Treasury not otherwise appropriated.

SCHOOL HOUSES.

On motion by Mr. HUBBARD, the bill [S. 15] to authorize cities and towns to negotiate and sell bonds to procure means to build school houses, to levy taxes, etc., was read the third time, and passed—yeas 49, nays 45.

REPAYMENT OF MONEY.

On motion by Mr. DAGGY, the bill [H. R. 227] providing for the repayment to the Township Trustees, in trust for the Township, all monies collected for general or special purposes by the County Treasurer,

except for State and county revenue, etc., was read the third time, and passed, yeas 28, nays 8.

FELONY.

On motion by Mr. ORR, the bill [H. R. 148] making it a felony for any official to be interested in any contract for the erection of any public building, was read the third time. Passed, yeas 34, nays 4.

ADJOURNMENT SINE DIE.

Mr. SMITH offered the following:

WHEREAS, The House of Representatives this day agreed to have divine services in the hall of Representatives, on Sunday, the 22d instant, that day being, under the law, the last day of this Special Session; therefore,

RESOLVED, That the President of the Senate be requested to procure a minister to hold divine service in the Senate on said day, and that the Senate thereafter adjourn sine die.

It was adopted.

RAILROAD AID ACT.

On motion by Mr. BEARDSLEY, the bill [H. R. 235] supplemental to the county and township railroad aid act of May 12, 1869, was read the second time, and under a dispensation of the constitutional restrictions, the third time, and passed by yeas 36, nays 0.

EXPENSES FOR CHANGE OF VENUE.

On motion by Mr. GREGG, the bill [H. R. 139] relating to expenses incurred by one county by change of venue from another, the county from which the change of venue shall be taken to pay all expenses incurred by such county consequent upon such change of venue, was read the second time and laid upon the table.

And then they adjourned till ten o'clock to-morrow morning.

THE

BREVIER LEGISLATIVE REPORTS.

THIRTEENTH VOLUME.

INDIANA LEGISLATURE.

HOUSE OF REPRESENTATIVES.

THURSDAY, December 19, 1872.

The SPEAKER directed the reading of the Journal of yesterday, which was dispensed with.

The SPEAKER resumed the unfinished business of yesterday, viz.: Mr. Martin's bill, [H. R. 76] to amend sections 1, 2, 4, 6, 11 and 12 of the private drainage act of 1867, the question being on the third reading.

Mr. BUTTERWORTH. This bill proposes to amend the law of 1867, for draining operations by private parties, and there is great need of it, especially in the northern part of the State. It provides that the land owner who is subject to assessment under it, shall have ten days' notice, and shall be heard in the matter of the appraisement; it requires the petitioner or applicant to give him notice; that the appraisers, or any two of them, shall go through and examine all the lands to be affected, whether described in the applicant's petition or not; and where there has been a failure from any cause in the matter coming to the knowledge of the owner, it shall be the duty of the applicant to cause a copy of such assessment to be served on the owner. And if the owner is not satisfied, it shall be the duty of the applicant to notify all the parties and proceed to a re-examination and re-assessment of the same, and report his assessment to the County Recorder for record, and the Recorder's charge for the record, of twenty-five cents a tract, is reduced after the first four tracts. He called special attention to the provisions of the 9th section of the bill. Under the present law the petitioner has to bear the entire expense of the proposed work, and can't collect one cent of the assessments till the whole of the work is done. This section provides that when a part of the drain shall have been completed, and the land owner receives all the benefit of the drain as though the whole were completed, then the assessments on such lands are collectable.

Mr. LENFESTY. But the other day the gentleman from St. Joseph was against all drainage laws.

Mr. BUTTERWORTH interposed to say that he was always heartily in favor of good drainage laws.

Mr. LENFESTY then referred to an understanding with the friends of the repeal of the Kankakee act, that if that were repealed the "Chapman bill" from the Senate should receive attention. But when the Chapman bill came from the Senate and it was referred to the committee of which the gentlemen is chairman, it remained there and has not been heard of since.

Mr. BUTTERWORTH. The Chapman bill has never been before the Swamp Lands Committee.

Mr. RUMSEY favored the bill, but was opposed to carrying it to the final vote at this time. He moved that it be referred to the Judiciary Committee.

The SPEAKER. There is objection; and it cannot be referred without instruction at this stage of the bill.

Mr. GREGORY wished to say to those who have not examined it, that this is a good bill. It was well known that in the

northern part of the State we have to depend very much on drainage to redeem some of the best soil in the world; and, perhaps, the only way we can do this work effectually will be by the organization of companies, and by legislating for amendment of this "one man's drainage law" to that end. He thought that both this bill and the Chapman bill ought to pass, so that the latter shall not give too much power to the corporators. This bill takes the act of 1867, and puts additional restrictions upon the powers conferred by it. It simply and only confers the power on any man so that he may go on the land of another and make an outlet for his ditch. It does not provide for corporations. I believe that I am just as much in earnest for the passage of the Chapman bill as I am for this.

Mr. HELLER was in favor of good drainage laws. We have 40,000 acres that must be drained in Allen county, and I hope gentlemen will withdraw their objections and let this bill pass.

Mr. LENFESTY adhered to his objections to the bill. Gentlemen are endeavoring to pass a bill that is not understood by the House. We have as much land that needs draining in Grant county as in any other county in the State, and we have done some of our best work under the Kankakee Drainage Act. He spoke for the Chapman bill, and for delay as to the passage of this pending bill till it can be understood.

Mr. GLASGOW. There is one provision in this bill which (as he thought) is quite as bad as the Kankakee act which we have repealed. I think it provides that the benefits shall be assessed without regard to the cost of the work; and that these assessments may be collected at the rate of ten per cent. per month. True, the parties are required to give bonds, but they may use the money and bank upon it.

Mr. BUTTERWORTH. There is no such provision in the bill.

Mr. KIRKPATRICK. Section 12 (lines 11 to 24) authorizes the person who holds land above, to deepen and widen the old drains; and if his ditch is four miles long it will occupy about eighty acres of land. I would like to have the bill referred back with instructions to strike out the 12th section.

Mr. BUTTERWORTH. That is the law now. It is the law of 1867.

Mr. KIRKPATRICK. I care not. Our object is to secure and accommodate interests all over the State. That is the very principle upon which we repealed the Kankakee drainage law.

Mr. ANDERSON also objected to the passage of the bill.

Mr. GREGORY defended the provision objected to by Mr. Kirkpatrick. It was a good and necessary provision where too much water has been let into the ditch for its capacity.

The final vote was taken and reported—yeas, 42; nays, 33.

So the bill failed for want of the constitutional majority of 51.

SUNDAY A LEGISLATIVE DAY.

Mr. BRANHAM submitted a resolution for an order that this House will pass no bill this session after this day.

Mr. HARDESTY moved to lay it on the table, but immediately withdrew the motion.

Mr. BRANHAM. The ablest lawyers I have consulted agree with me that we can't pass bills after to-night under the Constitution. I suppose all are aware that the forty days for this session terminate on Sunday. If it were absolutely necessary, and the House were willing to meet on Sunday and legalize our acts on Friday, I might be willing. But all the business of the session will pass into the next and be considered in order there, and there is no such necessity. And I submit whether it is prudent to pass laws without regard to the constitutional provision, which forbids the passage of any bill within two days of the adjournment of the session.

Mr. WILSON, of Ripley, made no question of the right of the General Assembly to pass bills on Friday.

Mr. KIMBALL read from a note received by him from the Governor: "I have no doubt of the right of the General Assembly to pass bills up to twelve o'clock Friday night."

Mr. BRANHAM. I have made no inquiry with reference to this matter from a political stand point. I put it upon this: I do not think the House ought to make a legislative day of Sunday; and if we do not, then we will not pass any bill after to-night. If there were any pressing necessity we might do it, but there is none. And I say, if the General Assembly requires all the people to observe that day, we ought to observe it as well.

Mr. SHIRLEY. An effort has been made here to provide other days besides Sunday, to be observed by abstinence from business; and as a question of consistency he would not require the Governor to work on Sunday, especially when there is no necessity for it—and all Christian people observe that day. And if we consider it as a legal proposition we find that Sunday is not observed as a day of

business; as, in the maturity of commercial paper and bills of exchange, and in the service of legal process, we have no right to count Sunday. When the last day of the paper comes on Sunday, you are required to protest it on Saturday.

Mr. WALKER. The gentleman from Jefferson (Mr. Branham) proceeds on the hypothesis that it is attempted to make Sunday a legislative day. But that is not the intention, for Sunday is now a legislative day, and the gentleman from Jefferson (unless he has remitted it) has drawn his per diem for every Sunday since the session commenced.

Mr. BRANHAM (in his seat). I have not drawn a dollar.

Mr. WALKER. Still, unless he remits it he will get five dollars a day for every Sunday, and in contemplation of law it is a legislative day. The Governor says in his letter that the session closes on Sunday—that is a constitutional point—and he says the practice has inc'uded that day.

Mr. BRANHAM. If the House should make a bill on Sunday, would it be valid?

Mr. WALKER. Yes, probably, it would. But we have higher authority. The Congress of the United States sits on Sunday, when occasion requires; and it did so under the advice and instructions of old John Quincy Adams. Then, unless the gentleman gives some good reason why we should exempt that day, we can't do so. The gentleman from Morgan and Johnson (Mr. Shirley) refers to the legal requirements in regard to bills of exchange, that proceeds from legislation. We here derive our authority from the Constitution. If the gentleman from Jefferson wishes to go home, he certainly can do so.

Mr. KIMBALL. In order to relieve gentlemen from the bitings of conscience in this matter, we might order a sermon for the day, and then close our business and adjourn sine die.

The SPEAKER announced that the hour has arrived for the consideration of the Special Order.

Mr. BRANHAM. I would be glad for the House to dispense with the special order till we can dispose of this resolution.

The SPEAKER. Will the House consent?

It was so ordered on a division.

Mr. BRANHAM. I demand the yeas and nays on the adoption of the resolution.

The yeas and nays were ordered.

Mr. COWGILL. So far as the legality is concerned, in the absence of any statutory prohibition we can make contracts, pass laws, or do anything of that kind. But there is a statutory prohibition in regard to making contracts and bills of exchange, and none against passing laws on Sunday. Then we can count Sunday and pass laws till 12 o'clock Friday night.

Mr. HOLLINGSWORTH. I would be glad to give my influence for the proper observance of the Sabbath day. But I propose to give higher authority for continuing our legislation through this day of the week than has yet been offered. We find this written saying by the Lord of the Sabbath: "Will not a man, if his ox or his ass fall into the ditch, straightway take him out on the Sabbath day?"

Mr. BLOCHER. I do not think it is right for a man to be trying all the week to push his ox or his ass into the ditch, and then make a Sunday job of getting him out. [Laughter.]

Mr. KIMBALL. As the question is directly on the adoption of the resolution, if the gentleman from Jefferson will promise me that we shall take up and consider the apportionment bill without delay, I will do what I can to accommodate him in this.

Mr. BRANHAM. I have no reference at all to any particular legislation.

Mr. KIMBALL. As far as this business is concerned, it ought to be done, so that we may come to the next session without any issue that will create ill-feeling. I am anxious, therefore, to dispose of it at once, and, as the Governor has expressed himself willing to consider and sign bills on the Sabbath day, I hope gentlemen will consider this matter and vote on it, not in a partizan light, but for the good of the State.

Mr. BRANHAM. I introduced the resolution at the suggestion of the gentleman from Marion.

Mr. THOMPSON, of Elkhart. I move that it be made in the form of a concurrent resolution.

Mr. BRANHAM accepted the modification.

Mr. WILSON, of Ripley, I move to lay the resolution on the table.

Mr. BRANHAM. As this is setting a precedent, I demand the yeas and nays on the motion to lay it on the table.

The yeas and nays were ordered accordingly, and being taken resulted—yeas 47, nays 43—as follows:

YEAS—Messrs. Baxter, Billingsley, Blocher, Broadus Butterworth, Butts, Clark, Cobb, Cowgill, Crumpacker, Edwards of Lawrence, Eward, Furnas, Gifford, Glasgow, Goudie, Gronendyke, Hardesty, Hatch, Hedrick, Hollingsworth, Johnson, Kimball, King, Kirkpatrick, Lenfesty, Miller, North, Odle, Ogden, Prentiss, Reeves, Riggs, Satterwhite, Scott, Thayer, Tingley, Thompson of Elkhart, Troutman Walker, Wesner, Wilson of Blackford, Wilson of Ripley, Wolfin, Wood, Wynn and Mr. Speaker—47.

NAYS—Messrs. Anderson, Baker, Barrett, Bowser, Branham Brett, Cauthorn, Claypool, Coffman, Cole, Dial, Durham, Eaton, Ellsworth, Given, Glazebrook, Goble, Gregory, Heller, Henderson, Hoyer, Isenhower, Jones, Martin, McConnell, McKinney, Pond, Primmer, Reno, Richardson, Rudder, Rumsey, Schmuck, Shirley, Shutt, Smith, Spellman, Strange, Teeter, Thompson of Spencer, Tulley, Whitworth, Willard, and Woollen—44.

So the resolution was laid on the table.

Mr. KIMBALL desired unanimous consent to enable him to report from the Committee on Ways and Means their amendments to the specific bill [H. R. 259].

The SPEAKER. It will displace the special order.

APPORTIONMENT FOR REPRESENTATION.

The SPEAKER now announced the special order, viz.: the consideration of the bill [S. 54] to divide the State into Congressional Districts. The bill having been read—

Mr. KIMBALL moved that it be made the special order to-morrow morning ten o'clock.

Mr. WOOLLEN. I move to amend the motion so as to make it the special order for the second day of the next session. I think we ought not to sustain this bill; but I suppose it will be done.

Mr. JOHNSON. I move to lay the motion of the gentleman, from Johnson, on the table.

Mr. WOOLLEN. Then I withdraw the motion as a matter of course.

Mr. GLASGOW. If it is in order, I propose the following amendment to the bill. (The amendment was read by the Clerk. It proposes to strike out sections 3 to 15, and insert section 3 embracing another apportionment.)

The SPEAKER. The chair decides that, according to the rules, the motion to make the bill the special order has precedence.

And then Mr. Kimball's motion was agreed to, and the bill was made the special order for to-morrow morning at 10 o'clock.

LEGISLATIVE APPORTIONMENT.

The SPEAKER then announced the other branch of the special order, viz.: the bill [S. 146] to fix the number of Senators and Representatives of the State of Indiana, and to apportion the same among the several counties.

Mr. BAKER was under the impression that we are taking a too hurried step, pressing this bill through this session. This apportionment will virtually disfranchise sixty-five thousand of the legal voters of the State. He stood politically unprejudiced, while he urged a careful consideration of the bill, and stood ready to do justice to both sides. For himself he would prefer to postpone the bill till the regular session. Having done his best to examine it, he had come to the conclusion that it is one of the most unjust measures ever proposed in the State. But as he was of the minority he could do no more than make his protest against the passage of the bill.

Mr. FURNAS. I feel the delicacy of this question. But there are always two sides to every question. It sounds like a a big thing to charge the disfranchisement of sixty-five thousand people—Democrats, and yet this bill disfranchises ten or twelve thousand on the opposite side. There are at least three thousand in the county of Marion disfranchised on the opposite side. I might be scared at this bill if I had not been here two years ago, when a much worse measure was introduced.

Mr. BARRETT. What did the gentleman do when that bill was introduced?

Mr. FURNAS. I staid here. [Laughter.]

Mr. KIMBALL. Gentlemen who oppose this bill, in years gone by when they were making apportionments for legislative purposes, did not take it into consideration whether Republican counties were disfranchised or not. All through their bill iniquity was found to exist. Now we come before the House with a bill giving a proper representation—a bill in which no party is disfranchised. It is true that strong appeals are made, and the words of the gentleman from Johnson (Mr. Woollen) entered into my heart; but this bill is Republican, and, as the gentleman says, there is no democratic party, no man can complain as a democrat. We stand here representing the people of the State of Indiana, and in order to make equal laws the Republican party hold it to be their duty to apportion the State so that no party can get into power to undo what that glorious party have done. All the objections of the minority here are merely for the purpose of exciting the House to distrust and doubt. But, gentlemen should not forget that, if there is favor one way, there must be disfavor in another way; and in looking over this bill it will be seen that the Republicans loose nearly as large a number of votes as the opposition. If we take the county of Marion, we have a surplus of nearly three thousand votes.

Mr. BRETT, (interposing). How many votes are required for a representative?

Mr. KIMBALL. Three thousand seven hundred and seventy-seven.

Mr. BRETT. How many in the county of Marion?

Mr. KIMBALL. Seventeen thousand—three representatives and a float uniting with the county of Shelby, and other sim-

cases of Republican loss will be found casting your eyes over the State. He been admonished that he might injure self here. He cared not for himself—ding as a representative of the people. will of the people is expressed in this and living or dying I will stand by it; I stand by my party; and I defy any in the United States to point to any- here that can work any injury to party. It is our duty to act indepen- ly, without being deterred by threats from what quarter soever they may. Speaker, the Republican party in the gone by have stood shoulder to der in bringing about those results have made its history glorious. I remember the positions taken by them the character of the opposition they ntered, yet in spite of all and through ce war they triumphed; they pre- ved the Union, and the country has the gainer by them in all respects. , in order to do good to mankind, to glorify God himself, the Republi- party should be kept in the majority.

Mr. ANDERSON was sorry to see the nant party on this floor coming for- and without any appreciable evasion the fact that the State is proposed to be icted unfairly, asserting that consider- the great merits and services of the publican party, and in deference to the , and to the future benefits to be ered by it upon the country, it must continued in power! But where is benefit of Republican rule? Is it this legislation? All its speakers here it a noble party, and therefore legis- for its perpetuity! Has it come to this? peal to gentlemen of the majority: I ume that there is not one of you but pondering in his mind, that this is dis- the State for a purpose. You are plainly, that it is to prop the party. let me call attention to some of its eral features. First—as to the Senato- representation. Add the totals to- of the counties districted for the pose of returning Democratic Senators, take the average constituency as at late Governor election, and you will 8,573 for the constituency for each that can be retained here as a Demo- Senator. Then take the average of districts designed for Republican tors, and you have it 7,422—making a ference of 1,152 against each one of the ocratic Senators. I should think that publicans would not like to come here ing that they do not represent so a constituency as the Democrats. gentlemen will apportion to increase their numbers, forgetting that they diminish the dignity of the position by decreasing the constituency. And if there is no Democratic party, this becomes an act against the people of Indiana. I hope it has not come to this—that partisans wish to place themselves in power where they are not supported by the majority. But it is plainly conceded, that the whole of the effort in passing this bill is, that the minority may rule—that they may always keep down the majority—that they may so make the apportionment that it will take an overwhelming voice to change the representation. He then went into his figures to show the injustice of the bill toward the county of Cass, with 5,866 voters, one Representative, and combined with the county of Carroll for a Senator, whilst the county of Randolph, voting only 5,014 voters, has a Representative and a Senator. Then, Scott, Jefferson and Jennings have three Representatives, and a Senator in combination; these three counties have but 1,629 votes more than would entitle them each to one Representative; and not one of them has so large a voting population as his county (Cass), which has no float. Then he called special attention to the representation for the counties of Ripley, Decatur and Rush; to these he had made his figures. Rush has 4,137 votes, Decatur 4,402, Ripley 4,300, making in all 12,839 votes. These counties are each entitled to one Representative, and jointly to one more, whilst the overplus so entitling them to one Representative is only 1,629 votes. Those were the counties to which he was calling attention instead of Scott, Jefferson and Jennings.

Now, I think it is apparent to every man that this is trifling with the right of representation. But this is no trifling subject. I know that politicians and parties in times past have sought advantages of this kind. But it is high time now (or it ought to be) for this Legislature to adopt a different policy. I believe that this policy is wrong, and that the sooner we go right honestly and fairly to work to allow the people a fair representation the better it will be for us all. I do not believe there is anything to be gained permanently by this kind of management. It certainly is not creditable to any man so to vote as to establish it as a historical fact, that a party barely in the majority seeks and asks such an advantage as this. There is nothing creditable about it. Now, I am like many others on this floor. I can see no necessity for rushing this matter through at the present session. It is expected that when a bill of this kind is

presented the minority will vote against it; but still the bill should be a fair one. I will say again that I can see no reason why its partizan friends should not trust the bill to timely consideration. Gentlemen will retain the power they now have through the regular session, and I can see no reason why it should not be deferred, if they are not afraid of anything. This is the mind of the minority honestly and candidly—

Mr. KIMBALL. Those of us who have a different opinion are just as honest as the gentleman.

Mr. ANDERSON. I do not wish to impugn the honor of any man; but what I mean to say is this; that there are members who are not conversant with the merits of this bill, but who are expected to support it and vote for such legislation—induced so to do by partizan feeling—without taking the trouble and the time to satisfy themselves of its correctness. This I believe, and am frank to say it, is often the case. Now all that could be lost by allowing the bill to lie over, would be more than compensated by the correction of some of its flagrant errors—errors which are against the people of the State of Indiana. Therefore I ask gentlemen again to take a little more time. I have no objection to their arranging the whole job, so as to give themselves a just advantage; but I do have objection to any bill that would require, for some localities, a so much larger constituency than for others. I object to a bill that will give a floating representative to a county with 4,200 votes and deny a float to another county with 5,800 voters. I think these things are so glaringly wrong that they should be corrected.

Mr. BARRETT. I shall detain the House with but a few remarks. I have nothing to say about Republitans and Democrats—not a word. I would speak for my people—the people of a county of the fifth grade as to wealth in the State—a county that when the rebellion broke out responded in full to every call that was made upon her, and supplied her quota of men so that no draft was ever imposed on her—a county within a fraction of 5,000 voters—and yet, under this apportionment she will not have a Representative on this floor, but must be tacked on to another county to be so entitled. I claim for my county as much intelligence as any other county in the State in proportion to her population, as exemplified in her colleges and schools, and on that score none can better deserve a fair apportionment. I know that the majority can do as they please; but it is my part to ask here for my people a fair representation—I care not what other county she may be associated with. I want to call attention to a few facts, upon which gentlemen may decide for themselves whether this bill proposes a fair apportionment. There is the county of Rush with 3,500 voters, and she has one Representative. The county of Monroe, with 3,200, has one Representative; and yet my county, with 5,000, must be tacked on to Brown county for a joint Representative. There is Jennings county with 3,400; she should have been satisfied with one, but she must have a floating Representative, with nearly 2,000 less than my county; and my county must go with half a Representative on this floor. Ripley county, with about 4,300, Decatur with 4,500 must have each a Representative, more than their quota, but still they must have another representative tacked on as a float, though each of these have a voting population less than my county. And Parke county—what has she done more than others? She comes behind her quota, yet she has a representative and a float! And the little county of Vermillion, (talk about a fair apportionment!) with a voting population of 2,245, not one-half the voting population of my county, and she must have one representative! I ask any one, in all candor and honesty, is there any fairness about such an apportionment? Warren county, with 2,490, about half the quota, must be entitled to a full representative! Then the county of Lake, with 2,400, (about half the quota again,) she must appear on this floor with a full representative, while my county, with double the number of votes, must not have one! Perry, with 2,900, one; Lagrange, with 2,800, one; and Steuben, with 2,793, one. These little counties must be entitled to a full representative, while my county, with 5,000 must be contented with a float with Brown. All this in order that we may pass an equal apportionment bill. Mr. Speaker, I might stand here for an hour noting the unfairness of the bill, but I told you I was not going to say much. I might go over the different counties and show more of these inequalities, but I forbear.

But now for the Senator. My county is tacked on to Brown county. Some gentleman will say to me: "Well, you have an overplus in the other end of the capitol." It is time that Brown and Bartholomew lack a little—a very little—of the quota for a Senator, but there are nine or ten other districts—Republican districts—that have a less voting population than Bartholomew and Brown. There is not a gen-

tleman on this floor but sees that injustice has been done to my county, and this House can apply the remedy. I do not ask gentlemen to let me remedy it; I ask them to do it. And if this is not done, there will be one county, the fifth in the scale of wealth amongst all the counties of the State, that will not have the right to send one of her sons as a representative on this floor. I move that the bill be recommitted, and these inequalities remedied in some way or other.

The SPEAKER. The motion is not in order. There must be special instructions.

Mr. WILSON, of Ripley. Gentlemen put their arguments very ingeniously, but very unfairly. In the very nature of things it is impossible to redistrict the State with exact equality. But I think the inequalities in this bill are distributed more equally than they would have been had the opposition prepared it themselves. The gentleman from Bartholomew (Mr. Barrett) has made a point of objection. His county is disfranchised. Let me say to that gentleman, that the counties of Bartholomew and Brown do not constitute a sufficient voting population to entitle them to a Senator, yet under this bill they are given a Senator; and that makes up for the deficiency of the award to Bartholomew for representative. It is claimed by gentlemen that Ripley county has more done for her than she is entitled to; but she has associated with her the counties of Switzerland and Ohio for a Senator; and we have in those counties together a voting population of over 10,000, and this is a Republican district. Seeing this large excess, I claimed that this inequality disfranchised us. But I saw that somebody had to suffer, and that we were to be one of the victims, because it is impossible to fix an exactly equal representation—the Constitution prohibiting the dividing of counties. So we receive the fraction more than one. The Senator requires a voting population of 7,540, and the representative 3,770. The county of Pike has a representative with only 3,050; Perry, with 3,442—one; Fountain, with 3,421—one; Whitley, with 3,203; all these have each one representative without sufficient voting population. Now I call the attention of these gentlemen to their own work two years ago. Then the counties of Knox, Parke, Vermillion, and Warren, with a voting population of 8,920, were put together for a Senator, and 1,500 Republicans were proposed to be disfranchised. And I will give another instance where it was proposed by them to disfranchise 1,500 more of the people of the State. The same bill took the counties of Pike and Dubois, with 7,537 voters, lacking 2,000 of being entitled, and gave them a Senator. This is some of the work on the other side. I say that this pending bill is as fair as it can be, if we admit the rule of giving to the party in power the benefit of the doubt. We have worked over this bill in our committees, where men of the majority have been actuated by the most disinterested motives, to give a fair representation; and I believe we have done it. But this cry of inequality is always the cry of the minority; and all those that have no party to-day, will come here combined against us two years hence. It is exceedingly strange that conscience has drawn such a line between men for the opposition of those actuated by no partizan considerations! and we know very well the object of these attempted delays. The Indianapolis *Sentinel*, of this morning, sounds the key-note; and it has been sounding it all through this discussion. I don't care what kind of a bill we may give to the opposition, if we postpone the consideration of this matter till the regular session, ever seat of the opposition will be vacated. This is but a song to lull us to sleep. They would leave this hall in one hour, if we attempted to pass this bill. Now it is for this reason that it seems to me that they are not actuated by the sincerity they profess, and which ought to belong to statesmen. Where has been the amendment offered to this bill by the minority? Every single amendment favorable to the minority has come from the majority, and it has come without their asking for it. Now, I say, this is not the part of sincerity. It is not treating the majority as they should be treated. We have magnanimously given them amendments which they not evinced the candor to ask at our hands.

Mr. JOHNSON. I had not intended to make a speech on this bill, and I shall not now attempt to discuss the alleged inequalities in the distribution of Senators and Representatives. It presents some inequalities, but no injustice. If there are inequalities, they are such as cannot be remedied. If gentlemen ask for more representation, the first thing to be considered is, what representation must be allowed under the Constitution? Bartholomew wants more representation, but where is it to come from? We are allowed but one hundred Representatives in this hall, and we can't assign a Representative to Bartholomew, because there is none for her; and gentlemen must remember that we can't take one from another county without marring the sys-

tem and producing greater inequalities. But while Bartholomew has a little surplusage as to a Representative, she has more representation in the other end of the building than she is entitled to. So, that is equalized. I think the arguments which have been presented against the injustice of this bill have made it about as clear as mud. I do not think that anything has been shown to prove that this is an unjust bill. Whilst Democrats suffer in some localities, Republicans suffer in other localities. Then I would respectfully suggest to gentlemen who represent the Democratic party as standing with folded banners and grounded arms: Why not lay down your arms and surrender?

Mr. WALKER (in his seat). I'll not surrender.

Mr. JOHNSON. The gentleman from Johnson is something like General Buckner at Fort Donelson, when General Grant had him in his grip. He sent out a flag to General Grant, with a request that he might have a little time to prepare for him; but General Grant said: Unconditional surrender is the only thing. And I think it is justice now to give gentlemen here just as good a chance as Grant gave to Buckner. We will accept their sword —their unconditional surrender. Mr. Speaker, if I thought this was an unfair or a dishonest bill, I would go amongst its friends and tell them, this bill is not right, and I think the Republican party can't afford to pass it. But I do not think so. I am satisfied that it is the very best apportionment that can be made or afforded by the State of Indiana. And now, as it is just twelve o'clock, I will move the previous question.

The House refused to second the demand.

Mr. WOOLLEN. I regret very much, sir, that the discussion of this matter has been restricted to such a small compass of time that no gentleman can properly prepare himself to make a speech on it for the purpose of examining the merits of the case. I have decided, therefore, not to undertake a discussion which would require two or three days to do the subject or myself justice. But I have tried to satisfy gentlemen that I am not without proper self-respect by making an appeal to them. But now, whilst I know the bill will pass, I desire to add a few words more, as much as the limited time will admit. The gentleman from Ripley, (Mr. Wilson,) and two gentlemen from Marion (Messrs. Johnson and Kimball,) all say this is a fair bill. As the gentleman from Marion (Mr. Kimball) said this morning that I touched his heart, so I say the gentleman from Ripley touched my heart when he spoke of the magnanimity with which we Democrats were treated in Republican caucuses. Mr. Speaker, I have gone into this bill with some diligence, for the purpose of seeing whether it has merits, and the further I went the worse it grew, and more outrageous, until it stands before my mind an unmitigated outrage and imposition upon the people. The gentleman from Marion (Mr. Kimball) says the Republican party always does right, and that when the Republican party disfranchises the Democratic party, it is all right because they do it. This is that gentleman's position. But there is one thing about this bill of which I desire to ask the gentleman from Ripley. Why is it in that this State, where Hendricks has just licked his Republican competitor,—why is it that so soon after, this bill is apportioned to give the Republican party on this floor 28 majority? I ask the gentleman to rise and meet this question. Why have you this 28 majority? Where do you find it? For the counties of Floyd and Clark, with a vote of 10,728, there is given a Senator, while Jefferson county, with 5,405 votes, has a Senator; and these counties are adjoining each other. Clark county alone has a larger vote than Jefferson—6,040—yet she is put with Floyd for a Senator. But when Jefferson was set down for a Senator, I suppose that satisfied the gentleman from Jefferson, (Mr. Branham.) Randolph has 5,014 votes, and Boone and Clinton, 10,117, more than double the vote of Randolph, but each district has a Senator!

When this bill came into the House from the Senate, there was a hurrying to and fro, and the gentlemen from Marion found that it would be necessary to refer it to the caucus; and when they did so—when the bill had received that laborious and magnanimous consideration—the amendments they reported, enured if anything to the benefit of the majority. The gentleman from Marion, (Mr. Johnson) said that he did not like it, and desired a change, whereupon it went into caucus and came out amended, striking out a Senator for Shelby and Marion, and inserting in lieu a Senator for the counties of Morgan and Marion. If it had been left Shelby and Marion there might have been an opposition Senator for that district, but putting on Morgan makes a Republican Senator certain. I find these changes made in the bill do not better the minority. There were several things in that caucus which availed to change the bill which I do not understand, of course, but I understand

that the gentleman from Decatur (Mr. Miller) was up in arms against it, and when it came in from the caucus Decatur has another Senator with Scott and Jennings. That satisfied the gentleman from Decatur. Every amendment was made for the satisfaction of gentlemen who were opposed to it on the side of their own political interests. I have a large mess of stuff figured here, and I find that, in every instance where it was possible to absorb Democratic Representatives and Democratic Senators, it has been done. Therefore, I am constrained to say that, upon proper consideration, the House would not pass such a bill.

Mr. WESNER demanded the previous question, and there was a second, and under the pressure the final vote on the bill was ordered and taken, resulting—yeas, 52; nays 42—as follows:

YEAS—Messrs. Baxter, Billingsley, Branham, Bradley, Butterworth, Butts, Clark, Cobb, Cole, Cowgill, Crumpacker, Edwards, of Lawrence, Eward, Fenns, Gifford, Glasgow, Goudie, Gronendyke, Harney, Hatch, Hedrick, Hollingsworth, Johnson, Kimball, King, Kirkpatrick, Lenfesty, Lent, Mellett, Miller, North, Odle, Ogden, Prentiss, Reeves, Riggs, Ramsey, Satterwhite, Scott, Thayer, Tingley, Thompson, of Elkhart, Thompson, of Spencer, Troutman, Walker, Wesner, Wilson, of Blackford, Wilson, of Ripley, Woollin, Wood, Wynn, Mr. Speaker—52.

NAYS—Messrs. Anderson, Baker, Barrett, Blocher, Bower, Brett, Cauthorn, Claypool, Cline, Coffman, Dial, Durham, Eaton, Ellsworth, Givan, Glazebrook, Gobe, Gregory, Heller, Henderson, Hoyer, Isenhower, Jones, Martin, McConnell, Mc-Kinney, Peed, Pfrimmer, Reno, Richardson, Rudder, Schmuck, Shirley, Stott, Smith, Spellman, Strange, Teeter, Tulley, Wadsworth, Willard and Woollen—42.

So the bill passed the House of Representatives.

Mr. KIMBALL moved to reconsider the vote just taken, and to lay the motion to reconsider on the table.

The latter motion was agreed to.

Mr. CAUTHORN moved ineffectually to amend the title of the bill by adding these words: "and apportioning the same in such a manner as to perpetuate the power of the Republican party, and declaring an emergency."

The House then took a recess till two o'clock.

AFTERNOON SESSION.

The House was called to order at two o'clock.

The SPEAKER announced the special order it being the consideration of the committee bill [H. R. 261] to amend the common school law by increasing the levy from 16 to 20 cents, and providing that the revenue from that source shall be applied to tuition purposes only.

On motion of Mr. COBB, it was postponed till 2:30.

CLAIMS—SPECIFIC APPROPRIATIONS.

On motion of Mr. KIMBALL, the specific bill [H. R. 260] was taken up on the second reading.

Mr. RIGGS, from the Committee on Claims, reported for allowance in the Specific appropriation bill as follows: J. H. Holiday, $27; Singer Manufacturing Company, $13 33; The Telegraph Publishing Company, $757 15; The Indianapolis Sentinel Company, $876 56; The Indianapolis Journal Company, $876 56; Holland Bingham, claiming $5,359 15, allowed $2,359 15, which reports were severally concurred in.

He also, for the majority of the committee, reported for allowing Theodore W. McCoy for extra services as Clerk of the Supreme Court, $1,689, the half of his claim.

Mr. LENFESTY, for the minority of the committee, reported a recommendation that nothing be allowed.

The report as amended was concurred in.

Mr. RIGGS reported for the allowance of the claim of Jonathan W. Gordon for $750 for legal services in a case for testing the legality of the specific appropriation bill several years ago. Mr. Smith demanded the yeas and nays on the question of concurrence.

After debate, in support of the report by Messrs. Cobb, Cowgill, Walker, Kimball, Johnson, Woollen, Lenfesty, and Wilson, of Ripley, and by Messrs. Smith, Tulley and Barrett, in opposition, the report was concurred in—yeas, 52; nays, 38.

He also reported for the allowance of the claim of Hendricks, Hord & Hendricks for $750 for legal services, whereupon Messrs. Smith and Heller demanded the yeas and nays.

The report was concurred in—yeas 45, nays 33.

Mr. DIAL reported for allowance of the claim of Newcomb, Mitchell & Ketchum for $200 for legal services; of the Republican Central Committee, $60, which were concurred in. He also reported for allowance of the claim of John H. Farquhar for $2,000 on account of incidental expenses in the office of Secretary of State.

Mr. LENFESTY submitted a minority report adverse to the allowance. The minority report was substituted for the report of the majority—yeas 43, nays 41.

On motion of Mr. CAUTHORN, this vote was reconsidered, and the question recurred on substituting the minority report.

On motion of Mr. WILSON, of Ripley, the minority report was laid on the table, and then the allowance was concurred in.

Mr. DIAL also returned the claims of Isaiah McDonald and others, members of the Committee on State Prisons, at the regular session of the Forty-seventh General Assembly, for expenses incurred in visiting the State Prison, recommending that they be allowed $50 each.

This repoit was concurred in.

Mr. SHUTT, from the Committee on Claims, returned Mr. Pfrimmer's bill [H. R. 67] for appropriating $413.599 58 to pay the claims of sufferers by the Morgan raid, recommending that it be laid on the table; which was concureed in.

He also reported for the allowance of the claim of John G. Hanning for $1 50 on account of repairs.

It was concurred in.

He also reported for allowance of the claim of B. W. Hanna for $4,000 on account of extra services as Attorney General for the last two years.

Mr. LENFESTY submitted a minority report recommending that the claim be not allowed.

On motion of Mr. WILSON, of Ripley, the report of the minority was laid on the table, and then the majority report was concurred in. Yeas, 51; nays, 25.

Mr. WALKER moved to reconsider this vote.

Mr. CAUTHORN moved to lay the motion to reconsider on the table, which was agreed to—Yeas, 40; nays, 36.

Mr. KIMBALL submitted a proposition to amend the specific bill [H. R. 259] by striking out the allowance of $150 each to the Secretary of the Senate and the Principal Clerk of the House—[at the request of Mr. Clerk Nixon.]

It was adopted.

Mr. MILLER submitted a motion to reconsider the vote by which the claim of Theodore W. Coy, Clerk of the Supreme Court, for extra services, to the extent of $1,689 was rejected.

The motion to reconsider was adopted, and the question recurred on the adoption of the report of the majority of the committee.

After debate by Messrs. Branham, Shirley, Thompson, of Elkhart, Baker, Thayer, Cobb and Kimball, the recommendation for allowance of $1,689 was again rejected —yeas, 36; nays, 40.

The specific bill [H. R. 259], as amended, was now read the second time.

Mr. CAUTHORN submitted a resolution (which was adopted) for an order that Cyrus T. Nixon, Principal Clerk of the House of Representatives, and Moses T. McLain, First Assistant Clerk, be each allowed the sum of $200 for indexing and correcting the proof-sheets of the Journal of the House, and for preparing an abstract of the House Journal, including the filing of all bills remaining for action at the special session.

It was adopted by unanimous consent.

COMMON SCHOOLS.

The SPEAKER announced the consideration of the special order for this day at half-past two o'clock p. m., viz.: the Education Committee's bill [H. R. 261] to amend section 1 of the Common School law of March 6, 1865; which was by previous order referred to the Committee of the Whole House.

The House then resolved into Committee of the Whole (Mr. Cauthorn in the chair) and the CHAIRMAN according to order announced the consideration of Mr. Mellett's Education Committee bill [H. R. 261] proposing to raise the school tax from 16 to 20 cents on the $100 of taxables, and to provide that it shall be expended for tuition purposes alone.

Mr. SHIRLEY who had drafted the bill for the Committee, stated its object. This first section of the school law, since 1865, collects 16 cents on the $100 "for common school purposes;" and this bill proposes simply to raise this from 16 to 20 cents, and provides that the whole amount thus raised "shall be expended for tuition purposes in schools." It is thought, that with this increase, together with what is expected from the new assessment bill, we shall have enough to open the common schools for six months in the year to all the children of the State.

Mr. BRANHAM was opposed to the bill —opposed to levying taxes in the dark. He would have the Superintendent of Public Instruction to come in and tell us just how much money he wanted, and ask the House to make the levy accordingly. And on his motion, seconded by Mr. BUTTERWORTH, the committee rose and the CHAIRMAN reported the bill to the House without recommendation, and asked and obtained discharge from its further consideration.

The Committee of the Whole were discharged accordingly.

And the House then adjourned.

THE

BREVIER LEGISLATIVE REPORTS.

THIRTEENTH VOLUME.

INDIANA LEGISLATURE.

IN SENATE.

FRIDAY, December 20, 1872.

The Senate met at ten o'clock.

The proceedings were opened with a prayer by the Rev. Mr. Tinsey, pastor of Asbury Methodist Episcopal Church.

Mr. DWIGGINS moved that the reading of the journal be dispensed with.

Mr. WILLIAMS objected. He wanted at least that portion read which contained the record of his appeal from the decision of the Chair yesterday.

On motion of Mr. SCOTT, the reading of the journal was dispensed with, except so much as related to Mr. Williams' appeal.

Mr. WILLIAMS objected to the journal because it did not show that the Senate concurred in the House amendments of the redistricting bill before his appeal was put.

THE HUNTING BILL.

On motion of Mr. NEFF, the bill [H. R. 6] to prevent hunting and shooting on enclosed lands without the consent of the owner thereof, was taken up.

Mr. ROSENBRUGH moved to amend by inserting after the words "occupant thereof," the words: "provided that such owner or occupant thereof shall have given due notice to the public, warning all persons not to hunt upon said enclosure by posting notices, not less than three, in three public places upon said premises."

Mr. NEFF opposed the amendment. He said if the bill became a law it was of itself notice to all the world. More than that, as the bill referred only to enclosed lands, the presence of the fence, when hunters came to it, was a notice.

Mr HARNEY opposed the bill. He was in favor of punishing the man who enters premises and commits wrong, but the simple entry upon premises ought not to render a man liable to prosecution.

Mr. SCOTT was willing that the amendment should be adopted, for the people in his vicinity have already posted such notices, and they understand that to be the law now. No man has a right to take wild game where he injures another man by doing so.

Mr. STEELE would prefer to see this bill passed over till the next session. He thought it would be wrong to pass it before having a full and fair discussion.

Mr. HARNEY moved to postpone the further consideration of this subject till next session.

The motion was rejected—yeas 21, nays 22.

Mr. FRIEDLEY of Lawrence (Mr. HUBBARD in the chair) moved to lay the subject on the table. It was agreed to—yeas 25, nays 18.

FRANKLIN INSURANCE COMPANY.

Mr. BROWN moved to dispense with the constitutional rule, in order that the bill [H. R. 36] to amend the charter of the Franklin Life Insurance Company may be read the first and second times by title, the third time by sections, and pushed to the final vote. [It proposes to increase the amount of a share of stock of the Franklin

Insurance Company from $25 to $50, and to change the name of the company, from the Franklin to the Indianapolis Insurance Company.]

The motion was rejected by yeas 25, nays 18.

FEMALE REFORMATORY.

On motion by Mr. BEESON, the bill [H. R. 211] making an appropriation of $50,000 to finish and furnish the female prison, and put in order the grounds thereof, was read the second time.

RAILROAD CONTRACTS.

On motion by Mr. RHODES, the bill [H. R. 241] to give security to persons who contract to perform work or labor for railroad corporations, was read the first time.

COUNTY PROPERTY.

On motion of Mr. SCOTT, the Senate refused to concur in the House amendments to his bill [S. 166] regulating the sale of county property and the letting and building of public buildings, and asked for a committee of free conference thereon.

The House amendment struck out the section requiring County Commissioners to file plans and specifications of bridges, buildings, fences, etc., before advertising for contracts to do the work.

Mr. RHODES moved for a constitutional dispensation, that the bill [H. R. 241] may be advanced to the final vote thereon.

The motion was rejected — yeas 18, nays 21.

SPECIFIC APPROPRIATIONS.

On motion by Mr. BROWN, the bill [H. R. 259] making specific appropriations for the year 1871 and 1872, was read the first time, and under a dispensation of the constitutional restriction, it was read the second time by title only, and referred to the Committee on Finance.

CLAIMS.

Mr. ORR, from the Committee on Claims, returned the accounts of the Guttenberg Printing Company of $476 60 for papers furnished the Senate last session, with a recommendation that it be referred to the Finance Committee for incorporotion in the specific appropriation bill.

The report was concurred in.

NUMBER OF EMPLOYES.

Mr. WILLIAMS offered a resolution directing the Principal Secretary, Assistant Secretary, Doorkeeper, President of the Senate, and the chairman of each standing committee, to furnish the name of each employe, the number employed by each, and the duties performed by each.

Mr. SCOTT moved that the resolution lie on the table. He said the number of employes had been fixed by the Senate and their names had once been reported.

The motion was rejected by yeas 18, nays 26.

Then came the recess for dinner.

AFTERNOON SESSION.

The Senate met pursuant to adjournment.

Mr. Williams' resolution pending at the noon recess, was taken up.

Mr. DWIGGINS moved to amend the resolution so as to require the report called for to be made at the commencement of the next session.

Mr. BROWN said he was opposed to an attempt to build up a political party upon such cheap capital as this, and moved to lay the whole subject on the table.

The motion was agreed to by yeas 20, nays 19.

ADJOURNMENT SINE DIE.

Mr. GLESSNER asked and failed to obtain consent to offer a resolution that the present session of the General Assembly, on Saturday, at twelve o'clock m., do adjourn sine die.

Mr. BROWN moved to amend by fixing the time of adjournment at noon next Sunday.

The resolution was laid on the table.

VENTILLATION.

Mr. THOMPSON, by consent, offered a resolution that Messrs. Smith, Scott and Oliver make such suggestions as will secure the proper heating and ventilation of the Senate Chamber, and take measures to put it in proper condition for the meeting of the Senate at the next session.

Mr. CARNAHAN moved as an amendment that the State Librarian be instructed to cause the flues that warm the chamber to be cleansed and repaired by the next regular meeting of the Assembly. He said an investigation of the flues in the House showed that there was more than a bushel of tobacco quids and stumps of cigars through which the air had to find its way, and hence the poisonous effluvia.

On motion of Mr. ORR, Mr. Carnahan's amendment was laid on the table.

The resolution was adopted.

COUNTY SEATS.

Mr. BROWN, from the Judiciary Committee, returned to the files the bill [S. 148]

on the relocation of county seats, that it may take its place on the calender of bills for consideration at the regular session.

EMPLOYES.

Mr. DWIGGINS, from the joint committee of free conference on the bill [S. 145] relating to the number of employes, recommended that the House recede from all its amendments except the amendments allowing the clerks of the House such an extra assistant, and a page, and that the Senate concur in that.

Concurred in.

JUDGES' SALARIES.

The PRESIDENT announced the special order—the Judges' salary bill [S. 9], which on motion of Mr. Brown was placed on the files.

TERRE HAUTE AND INDIANAPOLIS RAILROAD.

Mr. BROWN, by leave, offered a resolution, as follows:

RESOLVED, That the Committee on Railroads be authorized to continue its investigations in reference to the Indianapolis and Terre Haute Railroad after the adjournment of the present session, and report its investigations to the next session of the General Assembly; and the members of said committee shall have for their services during the time they are engaged, the same compensation allowed members of the General Assembly.

Mr. SCOTT saw no need of continuing so large a committee, if one must be appointed. He believed the investigation to be useless, and moved to reduce the number to three.

Mr. DWIGGINS said the matter was a very important one, involving, as it was claimed, a million of dollars for the school fund, and he thought the responsibility too heavy to be placed on the shoulders of three men.

Mr. BROWN referred to the twenty-third section of the charter of that railroad, and declared there was not such a provision in the charter of any railroad in the United States. The committee have taken the initiatory steps for bringing before the Legislature a proper account of this matter. With the information already obtained by the attorneys for the State in the suit now pending against the railroad, together with such as the committee may be able to obtain from other sources, he thought an intelligible statement might be made which would probably be of great importance to the State.

Mr. DWIGGINS suggested that there was still another question of even graver importance into which the committee might inquire, and that is whether the company has not forfeited its charter by its neglect to pay over the surplus to the school fund as required by law.

Mr. GOODING said a suit was now pending to declare the franchises of the company forfeited, and he thought the information which this committee might obtain would be of great value not only to the Attorney General's prosecution of that suit, but in a suit to recover the money due to the school fund. This committee has a great deal of work to do if it does its duty, and it ought to consist of five members, and they ought to take the time and sound this thing thoroughly, so as to put it to rest in the public mind.

Mr. GREGG. Considering the amount involved in the proposed investigation ($1,000,000) the expense of having the whole committee would be a trifling consideration. He moved to lay the amendment on the table.

The motion was agreed to, and the resolution was then adopted.

DECEDENTS ESTATES.

On motion of Mr. CARNAHAN, the bill [S. 71] to amend sections 7 and 49 of the act for the settlement of decedents estates, approved June 16, 1852, was read the second time.

Mr. CARNAHAN explained that in section 7 it changed the length of time—five instead of fifteen days—and in section 49, twelve days' instead of three weeks' notice of sale. He moved for a suspension of the constitutional rule that the bill may be passed to the final vote in the Senate

The motion was agreed to—yeas, 39; nays, 0, and the bill was read the third time and passed—yeas, 40; nays, 0.

COMMITTEE ROOMS.

Mr. HUBBARD, by leave, offered a resolution requesting the State Librarian to take charge of the property in the room of the Committee on Corporations.

Mr. DWIGGINS offered a substitute, directing the Librarian to take charge of and keep the property belonging to the State in all the committee rooms, except the rooms of the Judiciory Committee.

Mr. HUBBARD accepted the amendment as a substitute for his resolution.

Mr. DAGGY moved to amend by restricting the resolution to the rooms occupied by the Committees on Finance and Organization of Courts.

Mr. BROWN moved to amend further by adding the words: "The Committee on Corporations."

Mr. DAGGY accepted.

The amendment was agreed to, and so the resolution was adopted.

COUNTY PROPERTY.

Mr. SCOTT, from the joint Committee of Free Conference on his bill, [S. 166] report an amendment providing that the bill shall not apply to pending cases of relocation of county seats and recommending that House recede from its amendments.

Mr. BEESON opposed the amendment. He said that the act providing for the relocation of the county seat of Wayne county was covered all over with fraud. There is a ring at work in Richmond, and unless some measures are taken to restrain it, Wayne county would be involved in an expense of from three to four hundred thousand dollars in the construction of a new court house at Richmond. The commissioners have never employed an architect, as the law requires, nor has a plan or specification or estimates of the cost ever been filed. He wanted the bill so framed as to afford the necessary relief for Wayne county as well as Vigo county.

Mr. DAGGY said this proviso was gotten up by himself so that the county seat question should be entirely ignored—so as to avoid legislation either for or against a county seat—so this act shall be construed neither for nor against the county seat question. It leaves the county seat law question intact in every particular, and it leaves the question of remedies they have outside of this act. Therefore this provision expressly states that it shall not apply to anything of that kind. This is done to meet a demand from other quarters.

Mr. STEELE understood the difficulty to be this: The Senator from Vigo wishes to prevent a Court House being built at the expense of a county, without proper advertising, and the very same difficulty occurs with the people of Wayne county. He did not want the bill limited by the amendment so that it would apply to Vigo county alone. He wanted it framed so that its provision would apply to every county in the State. He thought it wrong either in the county of Vigo or the county of Wayne to compel the people to contribute to the building of a costly Court House when the proper steps have not been taken.

Mr. WILLIAMS raised the point of order that a committee of free conference have no right to introduce new matter in their report.

Mr. DWIGGINS. Let the county seat law remain as it is, and don't smother it by attempting to tack on something for the benefit of some particular locality. He favored the proposed amendment, as it leaves the county seat question where it is.

Mr. STEELE proposed to stand by the bill of the Senator from Vigo (Mr. Scott) without the crossing of a "*t*" or the dotting of an "*i*," and again insisted that such a law should be general in its application.

Mr. BROWN made the point of order that the report was not in order, as a committee of conference could introduce no new matter.

The PRESIDENT pro tem (Mr. Gooding, in the chair) held the point well taken.

THE SPECIFIC APPROPRIATION BILL.

Mr. STEELE, from the Committee on Finance, returned the specific appropriation bill [H. R. 259] with sundry amendments thereto.

On motion of Mr. DAGGY, the amendments were considered by sections.

The section allowing $880 to C. W. Stagg for taking and transcribing short hand notes in the Burson case last session being read—after considerable discussion—

The committee amendment was concurred in.

Mr. DAGGY moved that the constitutional restriction be dispensed with and the bill be read the second time by sections.

The motion was agreed to—yeas 38, nays 1.

Accordingly the bill was read by sections.

And then the Senate took a recess till eight o'clock p. m.

NIGHT SESSION.

The Senate met at eight o'clock.

Mr. O'BRIEN moved to amend the pending bill by striking out the section allowing the Attorney General $4,000 for extra services on behalf of the State, during the years 1870 and 1871.

Mr. ROSEBRUGH spoke earnestly against the motion.

Mr. DAGGY moved to amend Mr. O'Brien's motion, so as to allow Mr. Hanna $2,000 in full for extra services to the end of 1872.

Mr. O'BRIEN said that he did not make his motion with any political feeling. He was willing to vote to pay any officer for extra services rendered, but he could not learn that Mr. Hanna had rendered the State any extra service. He had been credibly informed that when the suits were pending in which these services are said to have been rendered, the State was represented by other attorneys, and the papers were asking where Mr. Hanna was? why the State was not represented by her

proper officer? Believing, therefore, that Mr. Hanna was entitled to no extra pay because he had rendered no extra service, he was opposed to Mr. Daggy's motion.

Mr. DWIGGINS demanded the previous question.

The demand was seconded by the Senate.

Mr. Daggy's motion was rejected—yeas, 17; nays, 29.

The vote on Mr. O'Brien's motion stood —yeas, 16; nays, 29.

Mr. DWIGGINS moved to amend the section by striking out $4,000 and inserting $2,001.

Mr. SLEETH moved, as a substitute, to strike out $4,000 and insert $1,600. He said there was no provision in the statute for furnishing the office, and yet he found by reference to the report of the Treasurer of State, that Mr Hanna had drawn $405 on that account. This, added to the $1,600, proposed by his amendment, would make $2,000, and this he was willing to allow.

Mr. BROWN suggested that the friends and opponents of the section compromise by striking out $4,000 and inserting $2,500.

Mr. WILLIAMS moved to lay Mr. Sleeth's substitute on the table.

The motion was agreed to by yeas, 31; nays, 13.

Mr. BROWN offered a substitute allowing $2,500 in full for all extra services rendered by him in behalf of the State during his entire term of office.

It was adopted.

The section, as amended, was agreed to —yeas 36, nays 9.

EXTRA PAY OF COMMON PLEAS JUDGES.

Mr. O'BRIEN moved to amend by striking out the section allowing $10 a day to Judges for holding extra terms of courts, because it is ambiguous and provides for the payment of Common Pleas Judges out of the State Treasury, when their pay comes from County Treasuries.

Mr. SMITH demanded the previous question.

The Senate seconded the demand for the previous question, and under its operation the amendment was agreed to.

Mr. DWIGGINS moved to strike out the section allowing $65 50 to the Jeffersonville railroad for transportation of persons on military passes in 1866.

It was rejected.

Mr. GREGG moved to amend section 15 by allowing E. P. Beauchamp $30 instead of $81.

The amendment was agreed to.

Mr. SLEETH moved to strike out the allowance of $2,800 to Barbour and Jacobs for legal services under authority of the Governor and State officers. He understood that Marion county would have obtained three-fourths of the advantage had the suit been successful, but as far as he could ascertain from dilligent inquiry this firm should receive not more than $800. The previous question was demanded and seconded and under its operation—

The motion was agreed to.

Mr. NEFF moved to strike out the section allowing Holland and Binkley $2,359 for legal services.

The motion was agreed to.

Mr. CHAPMAN moved to strike out the section allowing $785 for the Sunday Post furnished during the session of 1871.

The motion was agreed to.

On motion of Mr. GOODING, the amendments of the Senaate were considered as engrossed, the constitutional restriction dispensed with—yeas, 41; nays, 0—the bill read the third time and passed—yeas, 42; nays, 0.

REFORMATORY.

On motion of Mr. DAGGY, the nomination by the Governor of the Board of Managers of the Indiana Reformatory Institution, viz.: Joseph I. Irwin, for four years from the first day of May, 1869; Stoughton A. Fletcher, four years, from the first day of May, 1871; F. S. Armstrong, for four years, from the first day of May, 1872, were confirmed by the Senate.

COUNTY PROPERTY.

On motion by Mr. SCOTT, the Senate receded from its disagreements to the amendments of the House to the bill [166], and concurred in the House amendments.

SOLDIERS' BOUNTY.

On motion by Mr. GREGG, the joint resolution [H. R. 3] instructing Indiana Congressmen to favor the passage of a law to equalize the bounty of soldiers and seamen of the late war was passed by yeas 38; nays, 0.

Mr. NEFF offered a resolution, which was adopted, requesting the Librarian to place new locks on the outer door of the Senate Chamber.

Mr. DAGGY, from the Committee on Organization of Courts, reported back Senate resolution in relation to Criminal and Civil Courts and the memorial of the Bar Association, and recommended that they lie on the table until the next session.

The report was concurred in.

Mr. BEESON, from the Committee on Temperance, returned Senate bills No. 12, and 114, with a recommendation that they be placed on the calendar.

The report was concurred in.

BIRD AND SARNIGHAUSEN CONTEST.

Mr. NEFF, in behalf of the Committee on Claims, reported in favor of allowing the claim of O. Bird for $199, expenses incurred in contesting the seat of John Sarnighausen, and that the President draw his warrant for the same.

The report was concurred in.

On motion of Mr. O'BRIEN, it was ordered that when the Senate adjourns, it be till two o'clock p. m. to-morrow.

On motion of Mr. DAGGY, all bills before the Senate were ordered to be placed on the calendar in regular order.

NEW STATE HOUSE.

Mr. SCOTT called up House concurrent resolution offering $1,000 as a premium for the best plans and specifications for a new State House, $600 for the second best and $400 for the third best, and authorizing the committee to visit the capitals of different States, and to advertise for plans.

It was rejected.

And then at 11:40 o'clock the Senate adjourned till two p. m. to-morrow.

THE

BREVIER LEGISLATIVE REPORTS.

THIRTEENTH VOLUME.

INDIANA LEGISLATURE.

HOUSE OF REPRESENTATIVES.

FRIDAY, December 20, 1872.

The House met at nine a. m. The SPEAKER directed the Clerk to read the journal of yesterday.

Mr. WOOD, and Mr. THOMPSON, of Elkhart, successively moved to dispense with the reading of the journal, but Mr. HARDESTY and Mr. RUMSEY successively objecting—

The journal was read and approved.

SPECIFIC APPROPRIATIONS.

Mr. KIMBALL, from the Committee on Ways and Means, reported the return to the House of their bill [H. R. 259] making specific appropriations for the years 1871 and 1872, with sundry amendments thereto, incorporated under specific instructions of the House of Representatives; and so amended, the committee recommend its passage.

The report was concurred in.

The bill, as amended, was again read through by the Clerk.

Mr. MILLER. I desire to offer an amendment to the bill. The committee have just reported amendments, and I suppose amendments to be still in order.

The SPEAKER. The bill has not been ordered to be engrossed. If the House wish to consider the bill further it might be better to do so in Commfttee of the Whole, it will save journalizing.

Mr. CAUTHORN objected to any amendment of the bill at this stage. It has been read twice, and is now on the third reading.

On the motion of Mr. HARDESTY, the bill was referred to the Committee of the Whole House: Whereupon—

The House resolved into Committee of the Whole—Mr. Cauthorn in the chair.

The CHAIRMAN announced the consideration of the bill and directed the Clerk to read the first section.

Mr. BRANHAM suggested that it is useless for the House to consider this bill in Committee of the Whole; because these items have all been adopted by the House, and there can be no possible advantage in it. It is only lost time. If gentlemen would avoid getting their names on the journal, let me tell them that every step taken in Committee of the Whole will get on the journal when the bill comes back again to the House. I therefore move that the committee rise and report the bill to the House without recommendation.

The motion was agreed to, whereupon the committee rose, and the CHAIRMAN reported accordingly.

The report was concurred in.

B. W. HANNA.

Mr. MILLER submitted a motion to amend the bill by striking out the 27th section—an allowance of $4,000 to B. W. Hanna for extra services as Attorney General.

Mr. BRANHAM. The only way to reach that is, to reconsider the vote by which it was adopted yesterday.

The SPEAKER. There was a motion to reconsider, and that motion was laid on the table.

Mr. COBB. I hope this action will not be taken. We can't stoop to this matter. We can afford to be just. We can't afford to be mean.

Mr. CAUTHORN insisted that the bill is now on the third reading.

The SPEAKER. The is no endersement of the order for engrossment. (A special reference to the Journal of yesterday showed that there was a motion to reconsider the Hanna allowance, and that it was laid on the table.) The amendment proposed by the gentleman from Decatur [Mr. Millar,] can't be entertained again at this stage of the bill.

On motion of Mr. KIMBALL, the bill was amended further by an allowance to Julius Boettischer, of $108 15 for newspapers.

The bill was then considered as engrossed, and passed the third reading in the House of Representatives—yeas, 51; nays, 39—as follows:

YEAS — Messrs. Anderson, Baxter, Billingsley, Blocher, Branham, Brett, Butts, Cauthorn, Clark, Claypool, Cline, Cobb, Coffman, Cole, Dial, Eaton, Edwards, of Lawrence, Ellsworth, Gifford, Givan, Glasgow, Goble, Gronendyke, Hedrick Heller, Henderson, Hoyer, Isenhower, Kimball, King, Lenfesty, Martin, McKinney, Mellett, North, Ogden, Peed, Reno, Riggs, Rudder, Shirley, Spellman, Strange, Thayer, Tingley, Thompson, of Elkhart, Thompson, of Spencer, Walker, Wesner, Whitworth, Wolflin and the Speaker.—51.

NAYS — Messrs. Bowser, Broadus, Butterworth, Claypool, Cowgill, Crumpacker, Durham, Eward, Furnas, Glazebrook, Goudie, Gregory, Hardesty, Hatch, Hollingsworth, Johnson, Jones, Kirkpatrick, McConnel, Miller, Odle, Pfrimmer, Prentiss, Reeves, Richardson, Rumsey, Satterwhite, Schmuck, Scott, Shutt, Smith, Teeter, Troutman, Tulley, Willard, Wilson, of Blackford, Wilson, of Ripley, Wood and Wynn—39.

So the bill passed.

CONGRESSIONAL APPORTIONMENT.

The SPEAKER announced the special order, viz: the consideration of the bill [S. 54] to divide the State of Indiana into congressional districts, it being on the third reading.

Mr. OGDEN demanded a call of the House, which proceeded till it was determined that there are ninety-one members present.

The final vote on the bill was then taken, resulting—yeas 51, nays 40—as follows:

YEAS—Messrs. Baxter, Billingsley, Broadus, Butterworth, Butts, Clark, Cobb, Cole, Cowgill, Crumpacker, Edwards, of Lawrence, Eward, Furnas, Gifford, Glasgow, Goudie, Gronendyke, Hardesty, Hatch, Hedrick, Hollingsworth, Johnson, Kimball, King, Kirkpatrick, Lenfesty, Lent, Mellett, Miller, North, Odle, Ogden, Prentiss, Reeves, Riggs, Rumsey, Satterwhite, Scott, Thayer, Tingley, Thompson, of Elkhart, Thompson, of Spencer, Troutman, Walker, Wesner, Wilson of Blackford, Wilson of Ripley, Wolflin, Wood, Wynn and the Speaker—51.

NAYS—Messrs. Anderson, Barrett, Blocher, Bowser, Branham, Brett, Cauthorn, Claypool, Cline, Coffman, Dial, Durham, Eaton, Givan, Glazebrook, Goble, Gregory, Heller, Henderson, Hoyer, Isenhower, Jones, Martin, McConnell, McKinney, Pfrimmer, Reno, Richardson, Rudder, Schmuck, Shirley, Shutt, Smith, Spellman, Strange, Teeter, Tulley, Whitworth and Willard—40.

Absent, or not voting—Messrs. Baker, Barrett, Buskirk, Lee, Offutt, Peed, Stanley, Woodard and Woollen—9.

So the bill passed the House of Representatives.

Mr. WALKER moved to reconsider the vote just taken and to lay the motion on the table.

Mr. CAUTHORN. There is but one motion. I am in favor of reconsidering this vote. I think the bill as amended is doing manifest and great injustice to the Democratic party, and I do hope that the House will reconsider, and let the bill go over to the regular session, when the House will have time to give us one that is fair. This is not fair.

On the motion of Mr. COBB, the motion to reconsider was laid on the table—yeas 52, nays 39.

On motion of Mr. LENFESTY, the Senate message calling for a Committee of Conference on the disagreement of that body to the House amendments to the bill [S. 145] were taken up. [The House amendments increase the clerical force of the House and committees, and strike out the provisions which are contained in Mr. Cauthorn's Legislative Organization bill already passed into an act.]

The SPEAKER. The question is: Will the House recede?

Mr. WALKER and Mr. MILLER moved for a Committee of Conference, which was ordered, and the Speaker thereupon appointed Messrs. Wilson of Ripley and Peed to act on the part of the House of Representatives.

VENTILATION.

Mr. MELLETT moved that the Librarian be instructed to carry out the recommendations of the special committee in relation to heating and ventilating the hall.

The motion was agreed to.

SOLDIERS' BOUNTY.

The Senate Joint Resolution No. 3, instructing Senators to support the bill pending in the United States Senate giving bounty land to honorably discharged soldiers and seamen, was taken up and finally passed the House of Representatives—yeas 77, nays 0.

LEGALIZING TAXATION.

Mr. KIRKPATRICK called up the consideration of the bill [S. 150] to legalize taxation heretofore levied by the School

Trustees of incorporated towns or cities for the purpose of tuition in the common schools (shall have the same effect as if levied by the Common Council) was taken up. The House rejected his motion to suspend the restrictions, and the bill was ordered to the second reading to-morrow.

COUNTY PROPERTY.

The bill [S. 166] to regulate the sale of county property and the letting of public buildings, bridges, fences and monuments, was taken up on the first reading.

Mr. EDWARDS, of Vigo (Mr. Cauthorn in the chair), asked a suspension of the restrictions, that the bill might be carried to the final passage now.

The restrictions were suspended, and the bill (with clerical amendments) finally passed—yeas 82, nays 2.

MANUFACTURING AND MINING COMPANIES.

The bill [S. 151] to amend the first section of the act of March 11, 1861, to amend the act of May 20, 1852, for the incorporation of manufacturing and mining companies, and to provide for the incorporation of grain elevators and Union stock yards and transit companies, came up in order on the first reading.

On motion of Mr. BILLINGSLEY the restrictions were suspended and the bill was finally passed the House of Representatives—yeas 75, nays 4.

COUNTY BOUNTIES.

On motion of Mr. MELLETT, the order of business was suspended, and Mr. Lenfesty, from the Committee on Federal Relations, returned Mr. Mellett's bill [H. R. 200] to authorize county commissioners to legalize county bounties, with an amendment that such county commissioners' action shall be restricted to cases where such authorized bonds have been destroyed. [It is meant to cover the case of Delaware county, in which the bonds, which had been ordered for the purpose of paying bounties, were destroyed, and having been restored, are now ready to be issued.]

The amendments were concurred in, the bill being on the second reading.

On motion of Mr. MELLETT, the restrictions were suspended, and the bill was put on its final passage.

The bill was read the second and third times, and pending further action a message was received from the Senate announcing non-concurrence in the House's amendment to the Senate bill 166, and asking a Committee of Conference.

On motion of Mr. EDWARDS, of Vigo (Mr. Cauthorn in the chair), the House took up the Senate disagreement to the House amendments to the bill [S. 166] and asking for a committee of conference, and on his further motion the House refused to recede from its amendment, and authorized a committee of conference, whereupon the Speaker appointed Messrs. Baxter and Walker to serve as said committee on the part of the House.

The House then took a recess till two o'clock p. m.

AFTERNOON SESSION.

The SPEAKER pursued the consideration of Mr. Mellett's county bonds legalization bill [H. R. 200.]

Mr. TINGLEY desired that the bill be postponed till the regular session, presenting such considerations as gained the acquiescence of Mr. Mellett; and accordingly the bill retains its place on the calendar.

ORGANIZING THE ASSEMBLY.

Mr. PEED, from the the Committee of Conference on the disagreeing votes of the two Houses as to the House amendments to the bill [S. 145] in relation to the organization of the General Assembly, etc., recommending that the House recede from all its amendments to said bill, except those applied to section 2, which have been concurred in by the Senate.

The report was concurred in.

FELONIES.

The SPEAKER announced the consideration of the Senate amendments to Mr. Edwards of Vigo's bill [H. R. 148] defining certain felonies and prescribing punishment, etc.

Mr. EDWARDS, of Vigo (Mr. Peed in the chair.) This bill defines and provides for punishing it as a felony for any city officer having an interest in any contract for the construction of a public building. The Senate amendments are designed to make its provisions apply to town and State officers. I hope the amendments will be concurred in.

The Senate amendments were concurred in.

THOROUGHFARES AND WATER COURSES.

On motion of Mr. BILLINGSLEY, Mr. King's bill [H. R. 100] relative to the laying out, opening, widening, straightening and vacating of streets, alleys and highways, and for altering water courses in the cities of the State, and providing commissioners to assess damages, etc., and providing the duties of city officers therein was taken up, it being on the second reading.

Mr. BILLINGSLEY moved for a suspension of the restrictions.

Mr. SMITH opposed the motion and the bill; and submitted amendments to the 4th and 9th sections restricting the assessments for benefits to the streets widened, etc., which were adopted after debate; and the bill was then laid on the table.

COAL MINING REGULATIONS.

Mr. SCHMUCK called up the committee bill [H. R. 230] regulating coal mines and the working thereof, it being on the third reading.

Mr. CAUTHORN. I move that the bill be referred again to the Committee on manufacture and commerce, to be reported to the next session. I understand that this bill is in the interests of the miners, or those engaged in that business, and I think it should be well considered.

Mr. SCHMUCK. It is for the protection of the lives of the workers in the mines. they have a similar law in Pennsylvania, Virginia, Ohio and Illinois, and in our State there ought to be some such protection for the coal miners. We have to day 500 men working in the coal mines whose lives are not thus protected, and who are calling for this bill. Therefore, I think it is very important that it should be passed at this session. We all know how far men engaged in business will go to hazard the lives of their employes; and this bill is not a new thing. The law works well and satisfactorily in other States.

Mr. GIVAN. So far from being in the interests ot miners and manufacturers, the bill is rather in opposition to their wishes. Considering the peril of the lives of the coal miners, and their number—which is being increased continually—I hope the motion of the gentleman from Knox (Mr. Cauthorn) will not prevail.

Mr. PEED. I trust that this measure will not be urged too hastily. This is a measure of too much importance to be put through without careful consideration. It is true we have a large mining interest in the State, but capitalists have but recently opened our coal mines in my region. The passage of this bill, in my opinion, will drive capitalists from our mines and hinder their development. There is such a thing as going too far, and I think this bill is going too far. It is a system of red tape. It can't be enforced. It lays a burden on the mining interests that ought not to attach to them. Whilst those engaged in the mines ought to be secured in their lives, yet we ought not to pass a law that will involve parties engaged in the mining interest in interminable litigations. So far as my information goes, all the provisions of the bill with regard to ventillation are uncalled for. I understand that in all the mines there is ample provision as to this matter. What we want is a wholesome, equal law that will protect capital as well as life.

Mr. WILSON, of Ripley. We have hundreds of workmen in the mines who are wholly unprotected in their lives. Our mining interests are yet young, and we may have the benefit of the experience of mining and miners in Pennsylvania and other mining States, and I think this, founded in mining experience, is a just bill. I think the life and health of the citizen is a consideration higher than any mining interest. The Judiciary Committee understood that this bill meets the approval of, miners and those in the mining interest as well as the workmen in the mines. The workmen were before the committee, but the capitalists—the miners, were not. I hope the bill will pass—at least that the House will not take such action as will defeat it.

Mr. COFFMAN. This bill is of too much importance to be passed without due consideration of all the interests involved.

Mr. WILLARD. We have coal fields underlying large bodies of land, and this is a new interest in the State of Indiana. I am opposed to hampering with legislation any great public interest in its inception, and I am opposed to placing a law on the statute book, the practical workings of which we do not know. I have received letters from enterprising parties who are afraid of this bill. I claim that not only the laboring, but the manufacturing interests should receive protection. The manufacturers of my county regard this bill with alarm, and we should at least give to them the right to examine it and see how it will affect their interests.

Mr. DIAL. Whilst I am not willing to prevent capital from opening the coal mines, I would give immediate relief to the mine workers, so far as the protection of their lives are concerned. Four laborers have recently lost their lives in consequence of the foul air in the mines where they were employed. I see nothing in this bill that can interfere with the rights of the owners of coal mines, or that would interfere with the opening of the mines. But it is certainly a paramount object and duty in legislation, and first of all to protect life. We have hundreds of men in the State who are obliged to resort to this species of labor for a livelihood—to seek their living in the mines far beneath the surface; and there is not a season passes

in which many lives are not lost in our coal mines. I have received letters from my people appealing to the Legislature for God's sake to pass a bill of this kind for the protection of the lives of laborers in the mines. I think that all owners and workers of mines should be compelled to keep them in a condition that shall not endanger the health and life of their laborers.

Mr. THAYER considered it an important proposition, and might be made for the benefit of all the interests concerned.

Mr. SCHMUCK. Every man from the coal mining districts is in favor of it.

Mr. THAYER. That is correct, I believe; but the manufacturing interests of the State are just beginning to be developed, and we are not yet acquainted, hardly—certainly not familiar with this matter. Therefore we ought to go slowly with this thing. I can't see any harm that could result from allowing it to pass over to the next session. The history of coal mines disasters in the recent past makes this legislation an important duty, and I shall do all I can to secure the passage of a good bill.

Mr. BAXTER. I have taken the pains to examine the Pennsylvania mining law, and it is much more stringent than this, and they find it positively necessary for the protection of life. And since the Pennsylvania law has been in operation, these several years, its necessity has been demonstrated in the diminution of the destruction of life by the mines. Therefore, I think we ought to pass this bill at once for the protection of the lives of those who go down into the mines of our own State.

On the motion of Mr. WOLFLIN, Mr. Cauthorn's motion to recommit the bill with instructions was laid on the table, and the question recurred on the final passage.

Mr. RENO. I believe that this bill ought to pass for the benefit of the coal interests. If the laborers in the mines were protected, it would not only draw more men but more capital to the mines of our State. Men will not go where they are not safe in their lives, and capital cannot operate the mines without laborers. We hold the railroads liable for trifling with life, and why not other monied interests? Believing that it will benefit the entire mining interest, I hope the bill will pass.

Mr. COWGILL. I hope the bill will not be voted down. If I thought it would fail now I would not press it, but I do not think so. The object is to protect mining, and whilst it will protect the laborer it will not, in any way, interfere with capital. He referred particularly to some of the provisions of the bill, to establish his opinion, and added, Because we have no such law in Indiana, many of the best miners of the State have gone to those States where they have such a law.

Mr. KIMBALL. I would prefer to have this bill go over to the next session. I submit this objection to it. The Governor can't appoint the proposed examiner except upon the recommendation of the mine owners. The bill would be compulsory—compelling the Governor to submit to the dictation of the miners. I would readily vote for a proposition to protect the lives of the mine laborers, and also to protect the mine owners. But we find that by the provisioas of this bill, not only that the Governor's selection is subordinated to the will of the miners, but the five local examiners to be appointed by the local court judge are to be such as the miners shall select. I am opposed to these provisions of the bill.

Mr. GIVAN. I find that the owners of mines are liable to both civil and criminal actions for failure to comply with the provisions of this bill. It seems to me, therefore, that if the bill prsses it ought to be without the emergency clause; for I am persuaded that many mine owners are not in a condition to comply with its provisions at once.

Mr. MELLETT. I have not examined the bill critically, but I am satisfied that its provisions are copied from the mining laws of mining countries. I shall therefore support it as it is—emergency and all. As to the suggestion that the miners will have the thing very much in their own hands, I would say that the miners are in this interest. It is for their health and the protection of their lives that the bill is designed, and they are the very men to make these selections. If my health or life were at stake, and the law proposed to furnish me relief in this way, I should not think of applying to any lawyer or judge to direct my choice as to my own examiner. So I think in this case, that the regular miners should have the selection of the officers to carry out the provisions of laws for their protection. The mining statistics show that 2,500 men have lost their lives in the coal mines within the term of one year. In Pennsylvania, there was one life for every 13,000 tons of coal. Such was the risk of life there prior to the passage of their mining law in 1870—five lives for every 65,000 tons; now it is one life for every 65,000 tons. It may look, at the first, like a hardship on capital, but let us look first at the destruction of life and the pre-

vention. It has been but a short time since we all read the description and report of that scene on one of the mountains of Pennsylvania, where one hundred wives stood over the ruins of a mine, waiting for the dead bodies of their husbands to be exhumed. The miners are in danger all the time—as well in the day time, whilst we are sitting here, as in the night when we sleep—and it seems to me if there is to be any law passed to regulate this matter, there is no occasion for delay.

Mr. MILLER. There is one thing which I think the friends of this bill ought to agree to. I think it prudent and proper that any general law which makes the doing or not doing of it a criminal offence should not be passed with a clause of emergency.

Mr. WILSON, of Ripley. There is a provision in the bill fixing three months from its passage for the time of its taking effect.

Mr. MILLER. Perhaps that would answer. But it is certain that, in the absence of all experience in legislation on this subject here, we must look elsewhere for information; and we know of no better place to go than to look at the laws of other States that have had the greatest experience in mining. Pennsylvania has had a mining experience of a hundred years, and we may presume that her mining laws have been brought to as great a degree of perfection as we shall have arrived at a hundred years hence; and after all her experience there still comes upon Pennsylvania the Scranton disaster. The States of Ohio and Pennsylvania have been at work on their mining laws. Ohio passed hers in 1871, and Pennsylvania hers a few years before; and this bill is copied from these sources. So the committee that reported it do not claim any originality. As to the provision for the appointment of a commissioner and of mine inspectors by the Governor and the local judges—that was taken from the Pennsylvania law. It was desirable to take these appointments entirely out of politics; and being myself in favor of the Civil Service Reform, I have no doubt that we could do nothing better than to adopt this provision. The bill has been printed and on our tables for some time; but still, if gentlemen are satisfied I am willing that it should go over to the next session.

Mr. WOOLLEN. I see the Chairman of the Judiciary Committee (Mr. Walker) has just come in, and I would like to hear him state what he knows about it.

Mr WALKER. When this bill was first referred to the Judiciary Committee, I was informed that it was a compromize bill between the proprietors of the mines and the mine laborers; and we thought that if it were such a compromize it would satisfy us. After that some parties came to some of the members of the committee and said that the mine proprietors desired to be further heard on this bill. Then there was a telegraphic dispatch from the miners in Clay, telling that they desired to be heard. It was addressed to the gentleman from Marion.

Mr. JOHNSON. Owners of mines?

Mr. KIMBALL. Some did and some did not claim to be owners.

Mr. WALKER. It was then understood that the miners should all have the opportunity of being heard. That promise was made. I am in favor of this bill, and ready for its passage; but it is proper that I should state to the House that the committee was willing that both sides should be represented before them. I am very much in favor of the bill.

Mr. WOLFLIN. That despatch was sent two weeks ago, and none of them have appeared before the committee. I hope the bill will pass. Then where the mines are made safe, men will find out such places and prefer to work there, so that they may even reduce the wages of miners in a safe place.

Mr. COWGILL. Of these examiners, four of them must be practical miners, and the five may be owners or operators.

Mr. KIMBALL. In the 20th line of section 10, it is provided that no person shall be appointed Inspector unless he is a citizen of the State and has had practical experience in working the coal mines of the State. Now I can see how a man may have had this practical experience in other States; and yet, no matter how desirable it may be, the Governor can't appoint him.

Mr. COWGILL. That might perhaps as well have been left out; but it is not likely that there will be any difficulty on account of that limitation.

On the demand of Mr. THOMPSON of Elkhart, the previous question brought the final vote and the bill passed the House—yeas 67, nays 8—with an amendment of title, adding these words: "providing for the appointment of mine inspectors and a commissioner; providing punishment for the violations of this act, and fixing the time when this act shall take effect," proposed by Mr. Miller.

So the bill passed on the part of the House of Representatives.

LEGISLATIVE APPORTIONMENT—A PROTEST.

Mr. HARDESTY called for the reading of the protest of certain members of the

House (Democrats) who voted against the State Legislative Apportionment bill, [S. 146] which finally passed the House yesterday. It is as follows:

We, the undersigned members of the House, hereby enter our solemn protest against the act entitled, "An act to fix the number of Senators and Representatives to the General Assembly of the State of Indiana, and to apportion the same among the several counties of the State, and declaring an emergency," and demand that our protest, with our reasons for dissent, be entered on the Journal.

The reasons we assign for the protest are as follows:

First. That in our opinion the said act is a deliberate fraud and imposition upon the rights and privileges of the people of the State of Indiana.

Second. Because said act is a deliberate attempt to sap the very foundation of representative government by denying equal and fair representation to the people in the General Assembly.

Third. Because it is a shameful violation of that American doctrine that comes down to us from the Revolution, canonized by the blood of our patriot fathers, that taxation and representation shall go hand in hand.

Fourth. Because said act is an infamy, passed at the bidding of an unscrupulous partisan influence, and can not be defended upon any principle of common right, and was passed with indecent haste under the pressure of the previous question, so that debate was prevented and no opportunity afforded to expose its glaring defects.

Fifth. Because said act is a plain and palpable violation of the Constitution of the State of Indiana, which requires that Senators and Rspresentatives in the General Assembly shall be apportioned among the several counties, according to the number of inhabitants, under the enumeration made by law, which provision of the Constitution is wholly disregarded and violated by the said act, and it is therefore null and void.

Mahlon Heller,	Cyrus B. Tully,
W. S. Shirley,	S. S. Coffman,
M. L. Martin,	Henry S. Cauthorn,
C. W. Anderson,	S. J. Barrett,
N. S. Givan,	J. R. Isenhower,
Israel Goble,	W. M. Ellsworth,
John W. Cline,	J. Y. Durham,
W. H. Pfrimmer,	S. D. Spellman,
J. Henderson,	James W. Whitworth,
Daniel Blocher,	Samuel S. Shutt,
Henry A. Peed,	John McConnell,
R. B. Eaton,	Wm. Strange,
Jesse H. Reno,	James A. McKinney,
George H. Teeter,	Robert Gregory,
Gabriel Schmuck,	H. R. Claypool,
James Rudder,	T. N. Jones,
L. Dow Glazebrook,	S. D. Dial,
W. B. Smith,	J. T. Richardson,
Jeff. C. Bowser,	M. L. Brett,
Adam G. Hoyer,	James H. Willard.

Mr. THAYER. I move to amend the protest so that it will apply to the apportionment bill offered here two years ago.

The SPEAKER. The motion is not in order.

Mr. LENFESTY submitted the following:

WHEREAS, This House did, on yesterday, the 19th day of December, A. D. 1872, grant to certain members of this body the right to place upon the journal a written protest against a part of the legislative action of this House; and

WHEREAS, Said written protest with reference to that part of our legislation known as the apportionment bills, has been placed on the journal; and

WHEREAS, The said protest is violent in its character and greatly abuses the privileges granted calling in question the motives of members of this body, and is a breach of that decorum due from one side of the House to the other, therefore, in view of the facts as above set forth, be it

RESOLVED By this House that we deprecate the language of said protest, and the spirit which dictated the same, and that said protest should receive the unqualified disapproval of every well-meaning member of this body, and that said protestants for the grave abuse of the privilege granted them, should receive the censure of this House.

The SPEAKER. Any member shall have the right to enter his protest—that is the right to have it entered on the journal—that is a constitutional provision.

Mr. KIMBALL conceded freely the right of any member to protest against any action of the House, and would have been even glad to see the right exercised in this case, if the protest had been made in language becoming gentlemen. But the language of the protest charging dishonor and disregard of law and right against the majority, was such that he felt called upon by the sense of duty and self-respect to denounce it in the face of all the opposition that might be brought to bear against him; and he did denounce it as a dishonor and disparagement to the body and all concerned in it. He proceeded with earnest and rapid utterances to declare that it would be unbecoming in the majority, and that it would be a thing also which their constituents would not approve, for the majority to sit here with their lips closed and their tongues paralyzed while they were denounced in this way as a set of dishonorable scoundrels for their solemn official action taken under the sanctions of the oath of God.

Mr. ——. So far as I am concerned I have nothing to say further than this: I did not sign the paper without reading it, but since the reading of it here I am better pleased with it than I was before. We have not a fair showing on the apportionment, and as members of this body—as Democrats—we have the right to protest and denounce the proceeding of the majority.

Mr. SHIRLEY. It may be that we have used language quite severe: but I will say to the gentleman from Marion that a member of this House and of his own party, standing with us at the time, said that the bill was an outrage on the rights of the people. And when they tell me that if they were of the minority they would not tolerate it—

Mr. WILSON, of Ripley, interrupted with a point of order. It is out of order to call words in question, or to comment on the matured prior acts of members on this floor.

Mr. SHIRLEY. I will say then that we placed our protest there, believing that we are justified in what we say, and we ask

that the resolution pending be declared out of order.

Mr. WILSON, of Ripley. I regret that gentlemen have presented it in the language they have. I know that, personally, between themselves and myself, there is good feeling. I do not believe they would accuse me personally of any act that they would esteem as improper or denounce as shameful.

Mr. SHIRLEY. The gentleman has no right to call in question the motives of the minority.

Mr. WILSON. I am not: I am complimenting them. But as far as this protest is concerned, that is not an act of the House, and we have a right to comment on it. No deliberative body ought to permit a minority to cast a direct insult on the majority, or the House; and this protest is as much an insult to the minority as to the majority. It is one of the plainest principles of parliamentary law that none have the right to impugn the motives of ge ntlemen in debate; yet these parties go to the extent of arraigning the motives that prompted the action of the House; and that far I am in favor of wiping it out—wiping out the stain that is attempted to be cast upon the House. I grant the right of protest, but not the right of personal imputations. The simple question before the House is, whether we will allow a deliberate insult to remain on the record. I say that this is sought to be done—and I say it with all due respect to the protesting gentlemen. It it is better to protest in a just and truthful account of the action of the House, whether they believe it true or not. It is a breach of decorum to charge dishonor upon the journal. If we did not observe this decorum it would be impossible to do business. These rules have been established by experience. Legislative bodies can't do without them. This pro test comes in writing. As I understand the constitution, an individual member may protest for hfmself; and this House granted to the gentleman from Morgan and Johnson (Mr. Shirley) to submit his protest and have it placed on the journal. But after this bill [S. 146] had become law these gentlemen come in, and sign their protest in disregard of the rule against any reflection on the prior action and determination of the House. Then, so far as this is concerned, with respect to every member except the gentleman from Morgan and Johnson, it is a reflection upon the prior action of the House.

Mr. SHIRLEY. I claimed the right to protest for myself and the minority.

Mr. WILSON. The gentleman can protest for himself, not on the behalf of the minority.

Mr. RENO. I am sorry this discussion has come up. I am a young member here, but I desire to say that I believe all men on this floor act honestly. I trust and believe both sides of the House, as a body are honorable men, and I think the sooner we drop this discussion the better. It is in this way that men get heated and passionate—they will not be moved by attempted compulsions—they will stand as the rock of Gibraltar—they will warm up with passion, and give utterance to language as bad as ours in the protest—and this will go to the country. But the people are perfectly cool. It is only ourselves that are excited. The people and the newspapers will weigh the matter coolly, and perhaps laugh at us, and there will be the end on't.

Mr. BILLINGSLEY. As a member of this House I feel willing that the protest should go on the journal, simply with the understanding that the privilege of protest was given only to the gentlemen from Morgan and Johnson.

Mr. LENFESTY. I did not desire to say anything with reference to this resolution. I had my attention called to the protest, and I must say that it struck me as very unjust, and I have no doubt that many signed it without knowing what the paper contained, which is certrinly wrong. The gentleman over the way (Mr. Reno) says, that in the heat of passion we will say things against the dignity of the body, but that is just the thing we would repress. I can stand by and hear gentlemen in the heat of debate and look on calmly. But here is a protest that is to go on the journal, and remain there for history; and I say it is due to the House and the minority that it should be withdrawn. If this is not done, in after years, when we cast our eyes over the pages of the journal and rest them upon this protest, we will say that, not only the majority here, but the minority also were disgraced by it. I say this in sorrow that such a thing has appeared. I say, let the protest be withdrawn, and let gentlemen put on the pages of the journal something that will reflect their views better.

Mr. JOHNSON. I am satisfied that gentlemen will regard this as an unfit protest when they come to look at it coolly. I confess that I was surprised when I looked at the wording of it. I was shocked at the very first sentence. It is this: "In our opinion the said act is a deliberate fraud and imposition on the rights and privileges of the people of the State." If

they had said that it was an act of injustice, done in excitement—in the haste and excitement of party feeling—but this is not the form of the expression. The words here are: "It is a deliberate fraud." That charges every member of the majority with whom I stand with deliberate fraud—fraud with consideration—fraud that habit has permitted. It charges a deliberate intention to perpetrate a fraud and imposition—not on the rights of the minority on this floor—that would have been a compromise—but a deliberate fraud on the people of the State! Then this protest, in its first assertion, is false, and this first expression is one with reference to which a resolution ought to be filed, that it is expunged from these records. This sentence is so bad that if a private individual were to utter it against another private individual it would lay the perpetrator of it liable for damages. Here is a charge of corruption and fraud more turbid than I am willing to rest under.

Sir, I stand here, not as an individual, and if I do stand here as an individual, yet before this House I stand as one of the representatives of the people of a great county of the State of Indiana, and when I am charged with public fraud, the charge reaches back to the people I represent. Therefore I hurl the charge back, as a charge against my colleagues and my people. And I know that I shall be sustained in this by my people. It is a charge against me personally and against the people I represent. It is an insult to every gentleman on this floor, and through their representatives it is insulting to the people of Indiana The second reason for the protest is this: "Because said act is a deliberate attempt to sap the very foundation of representative government." My colleague (Mr. Kimball) has said that when we came in here we took an oath to support the constitution of the United States and of this State. Then here is another grave charge without a word of qualification—a charge of trampling on the principles of free government—a charge of action against a crowning principle of the constitution—a charge of violation of the oath we took. That is another insult to the House and to the people, and as such this House ought to have the privilege of wiping it out. It says, further: "Third. Because it is a shameful violation of that American doctrine that comes down to us from the Revolution, canonized by the blood of our patriot fathers, that taxation and representation should go hand in hand." Mr. Speaker, it was in the power of the majority to have done injustice to the minority, but I speak what I know when I say, that in that caucus of Republican members where this measure was matured, I know that no Democrat could have uttered sentiments more just and magnanimous towards the minority—no Democrat could have represented and protected their rights more carefully, safely and ably than they were represented and protected in that caucus. Sir, the majority here is not unjust. Whilst inequalities may be pointed out anywhere, almost, in any such bill, not one point of injustice was found I think the majority will bear me out in saying this further, that in that consultation I, myself, stood by the rights of the minority, and in some cases where there was injustice I said so, and the instant that injustice was pointed out it was corrected; and gentlemen all around me in that caucus,—the Speaker of the House amongst them—said, repeatedly, this provision and that provision is unjust to the minority—we can't afford to be unjust.

No gentleman of the majority will deny this, my assertion, here. These expressions were frequently and constantly made in caucus, and therefore I say to the minority in this protest, that they have done themselves the dishonor to insult their best friends. I felt that I was standing in that caucus in their interests, and now, being insulted, as I am, and those others with me, I ask the minority to withdraw this protest, because it does injustice to their friends—casts an insult into the face of those who have stood by them. I ask them to do this for their own self respect, as well as out of regard for those who have stood by them. I have no objection to the protest itself, but my notice goes to the infamous and unparliamentary language of it. Let the protest be decorous, and it insults no one. I know fifty-two honest men who voted for this bill—not one of them voted dishonestly. Mr. Speaker, I might go on further to notice this paper, but I shall not. I think the protest ill-advised, improper and unwise, and I know it is unjust to almost every member of the majority side. I tell the minority that their rights were not disregarded—not confided to an unreasoning or unfeeling party. I tell them that everything that could have been said in their behalf by the ablest of them was said in that caucus. If the minority will not withdraw their paper, I think it is due, not only to the dignity of the House, but to our constituents, that this protest should be expunged from the records of the house. It represents a state

of feeling which never existed on this floor. Therefore, I appeal to the minority, as I appealed to the majority—we cannot afford to do what is unjust. I will say again, that we do not want to dictate the terms and forms of speech in a protest, but we want the violent, inflammatory, and (I will say again) unjust language of it to be removed; and that it should be at least respectful, and have some of the elements of truth in it.

Mr. BARRETT. I am in a good humor. We are near the close of the session, and nothing should excite us unwisely. Whilst I would prefer a little modification of the language of the protest, so far as its truthfulness is concerned, I would not change it.

Mr. KIMBALL (interposing.) I would like to know what the gentleman means by truth? There is perhaps one truth there that I pronounce a falsehood—that we acted fraudulently—that is false.

Mr. BARRETT. What I mean by truth in this matter is the statement that there is not in the apportionment bill a distribution of representatives amongst the counties according to population. The gentleman from Marion (Mr. Kimball) says he has taken an oath before the Judge of the Supreme Court to support the constitution and do his duty, and we all did that; and I leave it to the minds and consciences of gentlemen whether they did make that apportionment according to that oath—whether they did make it as duty, and right, and justice require, and according to the constitution, which says that the several counties shall have representation according to population? whether instead of doing so, they did not give to some counties with less than 4,000, and less than 3,000 voters, a full representative, whilst another county, with nearly 5,000 voters, has only a half representative? And, again, I think at least one gentleman of the majority, (Mr. Branham) used almost the same language of the protest, not, indeed, towards members, but with reference to the bill itself.

Mr. JOHNSON. That language of the gentlemen was directed to the bill as it was first read in the House—it was not against the amended bill.

Mr. BARRETT. As to representation according to population, I do not know that the amendment made it any better.

Mr. WESNER moved for an adjournment.

Mr. Kimball desired the gentleman from Boone to withdraw the motion, and it was accordingly withdrawn.

Mr. SHIRLEY. I have not desired to incurred the displeasure of any gentleman of the House, and friendly relations have arisen amongst us, and these relations have been maintained even beyond my anticipations till this thing got into the House. We may have used too severe language in the protest; but, sir, the language of the majority has been equally severe and equally as unguarded as that of the protest; and some of them have gone beyond what is in the protest in the severity of their denunciations. And notwithstanding it has been whitewashed, (As I apprehended it would be) yet in my judgment, it was unjustly addressed to the minority; and therefore, I think we could be justified in putting on the record what they have said themselves. But still if the protest is too severe, I will say that I do not wish to offer an insult to any member, either by record or word in debate, whilst at the same time I do think that if the majority could reflect dispassionately and unselfishly upon their treatment of the minority, they would themselves feel that we have had just cause for what we have said. Considering it merely as a question of decorum, I am willing to change it; yet I have my convictions about the bill, and no expunging of records can change them. Sir, you can't wipe out the fact of injustice from the memory of the people! It may be, as the gentleman from Marion (Mr. Johnson) claims, that our rights were defended in their caucus. I do not know what then might have been our condition if we had been without any defence there! Could they, with any regard to the Constitution, have made the representation more unequal? Could they have made it worse as between the counties of Marion and Allen? Allen, with a greater voting population than Marion, one Senator and two Representatives, whilst Marion has two Senators and four Representatives, and one Senator more jointly with Morgan? and one Representative more jointly with Shelby? And there are many such cases where representation has not been given as the Constitution prescribes. But as I have said: I am willing to change the words of the protest, whilst I must insist on retaining the substance and matter.

Mr. KIMBALL. I am glad to hear the gentleman from Morgan and Johnson (Mr. Shirley) speak as he has now spoken. Though I found fault with some of the expressions he made use of—I presume he is the author of the protest—I am glad to know that he is willing to withdraw the offensive language. It is all the majority ask of him. Every man here accords the right of protest as to principle, and, as to

any gentleman's individual opinions, he can be heard and he can answer outside of the House. I would not throw any obstruction in the way of the protest on the part of the minority. I desire that they may be heard on the journal. Sir, I like to see gentlemen coming in here and claiming a just hearing—men with whom for years our personal intercourse has been such that I could say they are my friends. I like to see men striving for their right to do what they think ought to be done; and I am sorry only that the language of the protest was such as to raise an objection. But as the objectionable style is withdrawn, I am willing that they should have every word on the journal which gentlemen may deem necessary.

Mr. CAUTHORN. As to the claim that the matter of the protest is wrong, and the bill right, I deny that. There is something else in that count. But I am free to say that with regard to that apportionment bill there may be honest differences of opinion. The gentleman from Marion (Mr. Johnson) says the bill is right, and I am willing to give him credit for candor, but there are others who may say that it is not right, not fair. That is my opinion, sir, and I am as honest about it as you are, and I am willing to go before the people of the State on that question. I will say, further, that there is something in that protest and the objections to it that we might know more about than has yet appeared on this floor. Some have alleged that members of the majority here have asserted that they would not have voted for that bill but to keep their standing in the party. I can freely say that no gentleman has told me so, but gentlemen have told me that certain of the majority had said so; and if they have said so, then I say there is nothing in the protest that ought not to be there. And I will undertake to say that in the passage of that bill the constitution of the State has been shamelessly violated. We complain that the Legislative Apportionment is not equal, and hold you to the requisition which should have compelled you to distribute the Representatives fairly among all the counties of the State. Mr. C. was proceeding, by statements and figures to show some of the inequalities and glaring defects of the bill; as for the counties of Knox and Sullivan, (a Democratic district) with a voting population of 9,254, is given one Senator and two Representatives, whilst Lawrence and Monroe, (a Republican district) with a voting population of 6,616, are given the same representation, with a voting population 2,608 less than Knox and Sullivan. As between the districts composed of Floyd and Clark and Parke and Vermillion, there is a disparity of 3,581 against the Democratic district of Floyd and Clark. Dearborn and Franklin, with a voting population of 10,048 are given a smaller representation than Miami and Howard with 1,500 less—when he was interrupted by—

Mr. WILSON, of Ripley. It seems to me that the proper subject of discussion is the language of the protest.

Mr. CAUTHORN. I have said all I intended. I am not impugning the honest motives of any gentleman on this floor. I am willing to concede that they thought they were acting right. When my friend from Marion (Mr. Johnson) said the bill is right, I believe he told the truth as he regarded the bill; but I think he was influenced and biased by partizan feeling. If there is anything in the protest that wounds the feelings of gentlemen, I am willing to withdraw it. I will renew the motion to adjourn. [Voices—"No, no."] Then I withdraw it.

Mr. KIMBALL. The protest is on the journal, and I am willing it should remain there if gentlemen take away the objectionable language.

Mr. SHIRLEY. You can't strike out the protest.

Mr. KIMBALL. Protest as you please, God bless you, but don't insult me with your protests.

Mr. SHIRLEY [aside.] Don't insult me with your bills.

Mr. WOOLLEN. Whilst the majority have not the right to strike out the protest, the minority have not the right to protest in unparliamentary style. I do not say that the majority have the right to dictate the withdrawal; but, if it suits the minority, I desire that the protest should be withdrawn [Consent, consent"—from Democratic benches.] I desire to say also, that when it was passed to me, I saw its objectionable words, and I think that by getting together to-night we can embody our views and give them a proper expression.

Mr. SHIRLEY. We do not withdraw the protest.

The SPEAKER. The Constitution gives the right of protest.

Mr. WOOLLEN. Before I ask that this protest be withdrawn, I desire to ask the gentleman from Grant (Mr. Lenfesty) to withdraw his resolution. ["Consent," consent," from the benches on both sides.]

The resolution and the protest were withdrawn accordingly by unanimous consent.

NEW STATE CAPITOL.

Mr. BRANHAM, from the Select Committee on Plans for a new State House, submitted a preamble and resolution reciting that the Joint Special Committee heretofore appointed to receive plans and specifications for a new State Capitol building, have organized and come to the conclusion that with their present authority it will be impracticable and impossible for them to accomplish the object sought by the General Assembly, and therefore they recommend the adoption of a concurrent resolution offering——— dollars for architectural plans and specifications, which may be accepted by the General Assembly and used in the construction of the new Capitol, to wit: ——— dollars for the best plans and specifications so offered, accepted and used: ——— dollars for the second best; and ——— dollars for the third best; and authorizing said Committee to visit other State Capitols for the purpose of enabling them to discharge their duty properly, and allowing to each of them the per diem of a member of the General Assembly for the time so employed together with their travelling expenses: provided that they shall not pay for any plan not accepted by the General Assembly.

Mr. BRANHAM. It was the unanimous opinion of the committee that, under the former resolution of the House for State House plans, it would not be in their power to get the information required, especially in the short time allowed to them; and if the House wishes anything done in the matter they should pass the resolution we have reported. So far as that is concerned this whole matter is with the House. The original resolution was handed to me last night, and the committee met to-day. I am perfectly willing if the House should come to that conclusion, that the whole matter should be laid on the table. The House requires the committee to report at the next session; and consequently the committee believe it will put off any plan for the capitol for two years longer. The idea is that all plans shall be submitted to the General Assembly. But I say again, if it is the wish of the House I am perfectly willing that the whole subject should be laid on the table. The State of Michigan has built a State House recently, and for her plans and specifications she has paid $35,000. The committee propose to fill these blanks for the amounts proposed to be paid for plans and specifications—the first with $1,000, the second with $600 and the third with $400. The reason for this classification of the plans and specifications is this: Some architect might propose a plan for ventillation which might be adopted in preference to that which might belong to the plan adopted for the main building. The State can use any part of any one of the plans, or combine the three. The committee thought it might be well to visit the capitols of the States of Tennessee and Michigan.

Mr. THOMPSON, of Elkhart. I am opposed to paying for plans and specifications in this way. I think it would be better to employ an architect.

Mr. BRANHAM. I wish to state that the State of Michigan paid $35,000 for their State House plans, and the State had the right to employ whomsoever she pleased to superintend the work. I believe the architects charge five per cent. of the cost for plan and superintendence, which would be about $50,000. I move to fill the first blank with $1,000.

The motion was agreed to, and on the further motion of Mr. B. the remaining blanks were filled with $600 and $400, as before indicated by him.

And then, after Mr. Gregory's motion to lay it on the table, the concurrent resolution was passed on the part of the House of Representatives—yeas, 58; nays, 20.

A message was received from the Senate announcing non-concurrence in the report of the conference committee on the Senate bill No. 166, and asking the appointment of a new Committee of Conference.

On motion of Mr. WALKER, the House responded to the request of the Senate by the adoption of an order for the appointment of another Conference Committee to consider the disagreeing votes of the two houses with reference to amendments to the Senate bill No. 166, and the Speaker appointed the committee, viz.: Messrs. Walker and Thayer.

Mr. BLOCHER moved for the adjournment, which was modified by Mr. GIFFORD so as to make "the adjournment" a recess till half-past seven o'clock to-night, and so the order was adopted.

STATE HOUSE PLANS.

Mr. BOWSER. I move to reconsider the vote on the adoption of the resolution of the gentleman from Jefferson, (Mr. Branham) just reported by him from the Special Committee on State House Plans. I can't see the wisdom of employing architects so long as no action is taken for the new State Capitol. It is pretty certain that the plans and specifications of the architects taken at this time, would not be suitable for adoption twenty years hence; and I can't see the propriety of throwing away

two or three thousand dollars for plans that may never be adopted.

Mr. GREGORY. It strikes me, Mr. Speaker, that you are setting men to look after these plans who might not know any better how to build a house than a string of black suckers. I can't see any necessity for the committee at all.

Mr. KIMBALL. The object is to require the Committee to visit and examine buildings, and to get plans. I move to lay the motion to reconsider on the table.

The motion was agree to.

The House took a recess till half-past seven o'clock p. m.

NIGHT SESSION.

The SPEAKER resumed the chair at half-past seven o'clock.

TEMPERANCE.

Mr. THOMPSON, of Elkhart, and Mr CLARK, presented temperance memorials which were referred, under the rules.

THE CLERKS.

Mr. BILLINGSLEY submitted a resolution setting forth that the House had, on the 9th of the present month, passed an order requiring that a duplicate copy of the journal be made for the public printer, thereby imposing upon the clerks double work; and providing for an additional compensation to the Chief Clerk, Assistant Clerk, and their employes, of two and a half dollars per day since that date.

Mr. BRANHAM objected that in a case where the salary of an officer or employe is fixed by law it can only be increased by an act.

The SPEAKER. That decision has been made by previous Legislatures, I do not think it would be right to upset it.

Mr. BILLINGSLEY withdrew his resolution saying he would endeavor to have the gross amount incorporated in the next specific appropriation bill.

CANAL CERTIFICATES—THE CONSTITUTION.

On motion of Mr. WILLARD, the bill [S. 159] to provide for submission to the qualified voters of the State, for their ratification or rejection, the proposition to amend the tenth article of the State Constitution, by adding a section in relation to the debt charged on the Wabash and Erie Canal (on the 28th of January, 1873), was taken up on the second reading. He said: As yet it is uncertain whether the Legislature at the next session will decide to call a Constitutional Convention or not; and if they should not so decide, it is positively necessary that we should provide for the action of the people on this amendment. This bill provides that the people shall vote on the proposed canal certificates amendment question on the 28th of January, 1873, and get it out of the way so that we may propose other needed amendments.

Mr. WALKER. The people might vote on this amendment, and on the question of calling a Constitutional Convention at the same time.

Mr. CAUTHORN. It was by my amendment to the joint resolution that this time was required for the ratification or rejection of this amendment by the people, and I think it better to stand by itself. It is best that the bill should pass and get it out of the way of other special amendments.

Mr. HELLER. It will be remembered that I have a bill to submit to the people the question of calling a Constitutional Convention, but I have not pressed its consideration. The present constitution was made in 1851; and we have grown up and prospered under that constitution as no other State has grown and prospered in that time. That being the case, it would seem that our State Constitution cannot need amendment very badly. We were able to take our full share of the burdens of the late civil war, and with so much distinction and public credit that a halo of national glory was hung all about us throughout the conflict. And now the war is past we are without debt. There is a provision in the constitution whereby it may be amended specifically in every particular that may be desired by the people. There may be some occasion for the amendment proposed here, but I see no reason why we should be in a hurry about it. If there were any pressing necessity for it, I would with all my heart go for the bill. Therefore, in the absence of better reasons for urging it, I am disposed to vote against the bill at this time.

Mr. MILLER. I hope the House will permit it to pass over to the next session, for there is not time to mature and carry it out. And the thought has also suggested itself to my mind, that as the people have the first right to say whether or not they want a Constitutional Convention, it would be wise to submit that question with this at the same time.

The bill was passed over by unanimous consent.

INTEGRITY OF THE JOURNALS.

On motion of Mr. KIMBALL the bill [S. 165] relative to certain matters of

Legislative practice in the two Houses of the General Assembly of Indiana, and declaring an emergency, was taken up on the first reading. (It provides for two Journal Committees of five members of each of the two Houses, with the President of the Senate and the Speaker of the House of Representatives for chairmen, to examine the journals and report errors to the proper House for correction, etc.)

On motion of Mr. KIMBALL, the restrictions were suspended, and the bill was passed the House of Representatives without amendment—yeas, 68; nays, 7.

TEMPERANCE.

Mr. THAYER submitted a preamble and resolution reciting the vast importance of the subject of temperance; the fact that quite a number of bills on the subject have been introduced and are now in the hands of the Committee on Temperance; and the duty of members to examine them and consult their constituents with reference to their various provisions, and, therefore, making a formal order for printing 200 copies of said bills so introduced during this session; that the clerk see that this order is promptly executed, and cause two copies of each of said bills to be placed on the table of each member of the House of Representatives.

On the motion of Mr. WILSON, of Ripley, it was laid on the table.

TEMPERANCE.

Mr. LENFESTY, by unanimous consent and by request of a German constituent (probably Mr. Wolflin as the gentleman intimated), introduced a bill [H. R. 262] to regulate and license the sale of vinous and malt liquors, to prohibit the sale of a less quantity than five gallons at a time without first procuring a license as therein provided. The object (as he said) being to do away with whiskey as a beverage. There is a principle in it to which (being a prohibitionist) he did not subscribe, but he desired that it might go to the Committee on Temperance that it might receive a just and proper consideration in our legislation on this subject.

It was read by the Clerk.

Mr. KIMBALL proposed to amend by striking out the words, "those who sell," wherever they occur in the bill, and insert these words in lieu, "those who drink."

Mr. WILSON, of Ripley. I move to strike out "Tom Jefferson. [It occurs in the preamble.]

The SPEAKER. No motion except the motions to refer and to reject can be in order on the first reading; the preamble is considered last—with the title.

Mr. JOHNSON. There is quite a difference of sentiment about me here as to one section of the bill—whether it authorizes one person to drink five gallons at a time, or whether it is a prohibition of the sale of that quantity. [Laughter.]

Mr. LENFESTY. I am not the author of the bill. I have been requested to introduce it, and have taken the first opportunity of presenting it to the House. Its object is to do away with whiskey as a beverage—a deleterious beverage, and to substitute wine and beer, which latter it recognizes as harmless and healthy. I do not subscribe to the doctrine myself, but I desire, because there is a principle in it, that the bill should go to the Committee on Temperance.

Mr. WOOLLEN. I hope it will be referred to the Republican caucus.

On his motion (by unanimous consent) the minority of the House on the passage of apportionment bill obtained leave to retire to the Library rooms for consultation.

The bill was referred to the Committee on Temperance.

The SPEAKER now took up and persued the call of Counties and Districts for—

NEW PROPOSITIONS.

Mr. ANDERSON introduced a bill [H. R. 263] for an act in relation to railroad fences and prescribing remedy for live stock killed or injured by railroads, and matters connected therewith. [All railroad fences declared to be division fences; all claims for railroad injuries to be filed with the County Clerk, and copy served on the company thirty days before suit is brought, and within sixty days time after the accident, etc.]

It was referred to the Committee on Railroads.

Mr. PRENTISS introduced a bill [H. R. 264] for an act to amend the act regulating descents and the apportionment of estates.

It was referred to the Committee on the Judiciary

Mr. CLARK introduced a bill [H. R. 265] for an act to define professional prostitution, and prescribing punishment therefor—prescribing rules of evidence in such cases, etc. [A female convicted thereof to be committed to the Reformatory for Girls and Women.]

It was referred to the Committee on the Reformatory Institution.

Mr. BILLINGSLEY introduced a bill [H. R. 266] for an act to amend the act to regulate the opening, vacating, and changing of roads and highways, etc. Approved, June 1852. [Viewers and reviewers to receive two dollars a day, etc.]

It was referred to the Committee on ...ads and Highways.

Mr. TINGLEY presented the petition of ...ndry tax-payers of Rush county for the ...eal of the county and township railroad ...l act of 1869—calling particular attention ...the hardship of the majority clause.

It was referred to the Committee on ...ilroads.

Mr. BAXTER presented petitions from ...tizens of Kosciusko and Wabash counties ...the same subject. Also several peti...ns for a strong temperance law.

Mr. FURNAS and Mr. HOLLINGS...RTH also presented sundry temper...ce petitions.

All of which were referred under the ...le.

Mr. JONES introduced a bill [H. R. 267] ...amend the act to revise, simplify and ...idge the rules of practice, etc., [with ...gard to the commencement of actions.]

It was referred to the Committee on ...ghts and Privileges.

Mr. EDWARDS, of Lawrence, intro...ced a concurrent resolution condemning ...e proposed bill of Senator Sumner in re...tion to erasing the names of battles from ...e flags and the army register.

The SPEAKER. The same matter was ...sed of the other day on the resolu...n of the gentleman from Marion [Mr. ...mball.]

Mr. Edwards withdrew the resolution.

Mr. THOMPSON, of Elkhart, by leave, ...turned from the Committee on Federal ...lations, Mr. Heller's bill, [H. R. 286] ...oviding for taking the sense of the quali...ed voters of the State on calling a conven...n to alter or amend the constitution of ...e State, with the recommendation that ...t pass.

On the motion of Mr. HELLER, the bill ...as laid on the table.

LEGISLATIVE APPORTIONMENT—PROTEST.

Mr. WOOLLEN asked and obtained ...ave to present the protest of those who ...ted against the bill [S. 146] for an act to ...x the number of Senators and Represent...ives in the General Assembly of the ...tate of Indiana, and to apportion the ...ame among the several counties, and ...ving their reasons therefor, which was ...ead by the Clerk.

It is as follows:

Mr. SPEAKER: The undersigned who voted against the bill [S. 146] for an act to fix the number of Senators and Representatives in the General Assembly of the State of Indiana, and apportion the same among the several counties of the State and declaring an emergency, desire to protest against the passage of said bill and give their reasons therefor.

The object of all governments like ours, is to have the sovereignty which the General Assembly of the State are the agents by which that sovereignty manifests itself upon the Statute Book. The power itself resides in the people. That government is the most equal that brings this power into uniform action. When thus exercised, it is not only powerful but just. It places the Governor in his seat and gives him the executive authority. It makes the laws through its constituted agents, and gives them dicial animo. It places its broad seal upon the writ that brings the criminal to justice. It speaks from the jury box its verdict of weal or woe; and it directs the arm that executes the sentence of the law. A power thus omnipotent should be guarded with jealous care, and when robbed of its proper authority must produce disorder, weakness and confusion.

When the bill, mentioned in the beginning of this protest, came to the House from the other branch of the General Assembly, the undersigned hoped and believed that it would command here that careful consideration which its importance demanded. It proposed to distribute among the people that representation which the fundamental law declares "shall be apportioned among the several counties according to the number of white male inhabitants above twenty-one years of age." We demanded postponement and examination; it was refused. We asked for consideration and debate; it was denied.

In past general assemblies, when measures of this kind had been passed, the minority had resorted to revolution; but believing that wrong was little better than disorder, we determined to remain in our places in violation of well settled precedents, and rely upon the justice and magnanimity of the majority. We appealed to that justice and magnanimity in vain, thus justifying the revolutionary course of former legislatures; we appeal from the hasty and inconsiderate action of a party to the people t emselves.

Upon an extended examination of the bill we find it carefully prepared to perpetuate the power of the Republican party. It strikes down thousands of voters in some of the counties, and places the power which justly belongs to them in the hands of their smaller neighbors, only because of their political sentiments. As instances of this, it gives to the counties of Floyd and Clark, with their voting population of 10,778, one Senator; and to their Republican neighbor, the county of Jefferson, a Senator for her vote of 5,405. It gives to the counties of Boone and Clinton, casting 10,117 votes, one Senator, and to the county of Randolph a Senator with a vote of 5,014; and this, as we believe, because of their political complexion. It gives to the county of Vermillion a representative for her 2,445 votes, but denies one to the county of Bartholomew with her 4,761 votes, and Vermillion is Republican while Bartholomew is Democratic. These are only a few of many instances of like irregularities; while the county of Marion, the center of political power and corruption, in effect, elects three Senators and five Representatives.

If anything were wanting to condemn the bill more than its manifest irregularities, it can be found in the fact that it was agreed upon in a party caucus and passed without debate in the General Assembly. We know that the political caucus is manipulated by outside influences not responsible to oaths or the people. The majority in this House, misled, as we believe, by designing men, not members on this floor, at the beginning of this session, resolved that all important measures should be determined in caucus and not considered and debated in this House. We believe that this was as wrong in principle as it is vicious in practice; and that the bill under consideration was the legitimate result of this departure from that correct principle of legislation. In our opinion the bill could never have passed this House except under the pressure of party discipline. We know that when that discipline is brought to bear the rights of the people are in jeopardy.

For these reasons, and in the name of that people whom we were sent here to represent, many of whom by the provisions of this bill will not hereafter be represented on this floor, we solemnly protest against

the action of this House in passing the law, and respectfully ask that this Protest be entered upon the journals of the House.

Jeff. K. Bowser,	T. W. Woollen,
Jas. A. McKinney,	T. A Jones,
N. S. Givan,	L. D. Glazebrook,
S. D. Spellman,	S. S. Shutt,
H. C. Stanley,	Jesse H. Reno,
Cyrus B. Tulley,	Adam G. Hoyer,
Henry S. Cauthorn,	S. S. Coffman.
M. L. Martin,	James W. Whitworth,
R. B Eaton,	Wm. Strange,
W. H. Pfrimmer,	J. R. Isenhower,
J. A. J. Durham,	C. W. Anderson,
H. E. Claypool,	Geo. H. Teeter,
John McConnell,	James Rudder,
Gabriel Schmuck,	W. B. Smith,
J. Henderson,	M. L. Brett,
Chas. G. Offutt.	

Mr. KIMBALL. There is one statement in that which is not entirely correct, and that is where they say debate was denied them. The bill was debated by the gentleman from Cass (Mr Anderson), the gentleman from Bartholomew (Mr. Barrett) and the gentleman from Johnson (Mr. Woollen) himself; and the bill was recalled in order to give time for debate. And there is another incorrect statement, and that is where they intimate their belief that the Republican caucus was dictated to and controlled by outside influences. So far as the majority here have been concerned, that statement is entirely incorrect. I am willing to state here, that so far as my knowledge extends, there has been no outside influence brought to bear upon us.

Mr. BRETT (interposing). Did not the gentleman himself admit that outside influences were operating in the apportionment?

Mr. KIMBALL. No sir, I did not. And so far as the counties of Bartholomew and Brown are concerned, it was found that it required both of these counties to entitle them to one Representative, with a small overplus. And to rebut that inequality, Bartholomew and Brown being hardly entitled to one Senator, they were combined and given the two—one Representative and Senator. The majority took into consideration the surplusages on both sides, and found them about equal, and the inequalities were thus levelled down. As for the intimation that the city of Indianapolis is the center and seat of political corruption, I will let that statement go for what it is worth. Mr. Speaker, I am satisfied with the protest.

Mr. BRETT. What about Mr. A. H. Conner's conduct?

Mr. KIMBALL. Mr. Conner is not under discussion, and I am sorry to see gentlemen of the opposition ready to name and characterize any gentleman, because it requires names to be called in the reply, and I will not do so. Mr. Speaker, I shall speak for myself—and I believe for the majority here—when I say, we are willing to stand by our action on the apportionments, and appeal to the people from that partizan protest. I believe I know the people. I believe they are honest—that they are capable of judging correctly as to what is right, and what is best for the State and for their respective localities, and I know, that I, in this matter, have represented the will of the people who sent me here. Mr. Speaker, I am glad that this protest has been returned in the gentlemanly language in which it has been read. I am glad they have had the manliness to withdraw and amend it. We fear nothing. We stand upon the rectitude of our action. We appeal to the people of Indiana, and trust in the people and in God for the justification of our cause, and we rest the case.

Mr. WOOLLEN. The time is past for me to get excited. The gentleman's indignation comes to us in such good faith, that we are thrown back upon the conclusion that Marion county is entirely pure! He says he has been through the case, and so far as the Republican party is concerned it also is entirely pure. But we who live in the country have been observers as well as the gentleman, and we tell him we have seen too much to believe every word that is told us of the political purity about Indianapolis. The probability is—and it is the strongest probability—that there is truth in that protest, where it says: that Marion county—this political center—is the seat of power and corruption. I know that the gentleman from Marion has nothing to do with it, but there are others that are amenable to these words of the protest. I do not pretend to say that Democrats have not gone astray; but if they have gone astray, it is not due to their organization. With regard to the rest of that paper, I will tell the gentleman that it is just as we feel. I can have no doubt that the gentleman from Marion is wholly unconscious that he ever did a wrong thing in his life, and I suppose I do not do him justice in this, for I cannot make the declaration with such a rounded and benignant face as he did. Sir, that protest embodies what we think. But I want to say here, that when I speak of the acts of men of both political parties, I do not go down into a man's heart to see what he means, because we all, when we step into politics, are as apt to do wrong as right; but when we go out otherwise than in politics, we are about as other men. Now, I believe it is true that there never was a political caucus called

gether in Indianapolis that was not affected more or less by outside influences. Hence the reason of the statement in the protest. When we have the decree of a legislative caucus, that is but one side of the case, and it is necessary for a correct judgment to hear both sides of the case. If you drop into a court room to-morrow and hear one of the attorneys in any case, you go out with the impression that his cause is right. But if you had remained and heard the answer, and the siftings and reasonings in the case, you would say there was another side to it. And herein is the danger in all political caucuses. I believe I can sit on the fence and do justice between man and man, and yet I would be afraid to trust myself if I heard but one side of the case. There is nothing that contributes so much to a fair judgment as the discussion of both sides. Your Supreme Court demands that they shall hear the reasonings—the pleadings on both sides. It is when mind strikes mind that you have the light. And I believe this doctrine is as sound in the legislative hall as it is on the bench. I believe we ought to come by our conclusions here just as the judge makes up his mind sitting upon the bench If we would do that, sir; if we would be constantly governed by this rule here, I tell you that the laws emanating from these halls would be so just and right and righteous that the people would commend us, and we would be blessed in our designs.

Mr. WALKER. I believe the testimony is all in, and I think it is time for the court to charge the jury.

The SPEAKER. The protest will go to the journal.

Mr. CAUTHORN. I do not desire to disturb things where so much oil has been thrown on the troubled waters. We all know that Marion county is to the State what the heart is to the human system All the people are continually crowding into and flowing out of this center of trade and manufactures, and all the interests of profession and craft—and wherever there are crowded interests and men there is corruption. And when we say this in the protest, we do not charge that all are corrupt—but Indianapolis being the capital of the State, it is the seat of fraud and corruption.

Mr. COWGILL interposed a few words, which were not heard.

Mr. BRANHAM. Mr. Speaker, I thought the argument in this case was closed. [Laughter.]

HUMOROUS—WHIMSICAL—GENERAL.

Mr. ———— submitted a resolution for an order that if any page be found guilty of writing or scribbling on any paper, book or document about the desks of this Hall, he shall be deemed guilty of a misdemeanor and discharged from the employment of the House.

On the motion of Mr. SHUTT, it was laid on the table.

Mr. WILSON, of Ripley, submitted the following:

RESOLVED, That the minority and the majority in this House now shake hands over the bloody chasm.

Mr. CAUTHORN. In order to carry out the resolution, I move that we have a recess. ["Consent," "consent."]

The SPEAKER. By unanimous consent, the House is resolved into Committee of the Whole—the gentleman from Knox (Mr. Cauthorn) in the chair. [Laughter.]

The CHAIRMAN. The House is still in session—as in Committee of the Whole House. [Laughter.]

The House being thus prepared in the later hours of the night and waiting for the consideration of the Senate amendments to the specific bill [H. R. 259] relaxed into the consideration of things humorous, whimsical and general, with a mock parliamentary treatment, of which the following is a sufficiently careful summary:

Mr. ———— submitted a resolution for a select committee to extract the panes from the windows of the rotunda.

The CHAIRMAN. The question is on the adoption of the resolution.

Mr. FURNAS. I do not want the committee to go into this thing blindly. I want to know whether there is any story?

The CHAIRMAN. There is no story in it.

Mr. GIFFORD. I would inquire of the gentleman whether he has himself drawn any ex-stories?

The CHAIRMAN. The chair can answer only as to itself. I have not drawn any green backs.

Mr. WILSON. Is there anything before the committee?

The CHAIRMAN. Nothing but the gentleman from Ripley.

Sundry resolutions were offered and variously disposed of, including one requiring the Committee on Temperance to stand treat; another in favor of shaking hands across the bloody chasm; another declaring the gentleman from Marion (Mr. Kimball) and the gentleman from Johnson (Mr. Woollen) guilty of contempt in smoking in the lobby, unless they furnish all members of the Committee with cigars.

Business growing slack, Mr. WOLFLIN was called upon for a speech, and responded in German, with great cheerfulness and eclat.

Mr. KIMBALL moved that Mr. Joseph Lawson be invited to give a recitation from Richard III. The motion was agreed to, and Mr. Lawson recited, "now is the winter of our discontent," etc. The hat was then passed, and a liberal collection gathered.

Other sundry resolutions were "offered" and "taken by consent," requesting the gentleman from Vanderburg (Mr. Wolflin, the reputed author of the five gallon liquor bill [H. R. 262] introduced this night by Mr. Lenfesty to furnish the House at the next session with a five gallon jug of whisky; that the committee of the whole draw the whole in after them; to consider the last resolution a joint resolution, and that the clerk acquaint the Senate of its passage by the House of Representatives; that the gentleman from Vigo (Mr. Edwards) inform the House what he knows about courtship and marriage in general; that the committee be instructed to report such legislation as may be necessary to promote the emigration of insurance solicitors and the spontaneous growth of sewing machine agents; that the gentleman from Vigo (Mr. Edwards) be requested to tell the House what he knows about echoes; that the gentleman from Harrison (Mr. Primmer) be requested to inform the House what he knows about John Morgan's mule.

Mr. JOHNSON. Resolved, That this committee proceed to do something ridiculous.

Mr. MILLER. I then call for a speech from the gentleman from Marion.

SPECIFIC APPROPRIATIONS.

At eleven o'clock a message was received from the Senate, announcing the passage of the Specific Appropriation Bill [H. R. 259] with sundry amendments, viz.: striking out the Holland and Bulkley allowance; the Jeffersonville RR. allowance $65 16; the judges' allowance ($3,560) for holding adjourned and special sessions; the Barnes and Jacobs allowance for legal services, $2,800; and reducing the E. W. Hanna allowance from $4,000 to $2,500, and reducing the E. P. Peachamp allowance from $81 to $30.

Mr. BRANHAM. If any of this work has been improperly done we can revise and correct it at the next session. I move that the House concur in all the amendments.

The motion was agreed to, and the amendments were concurred in without a division.

On motion of Mr. BRANHAM it was ordered, that when this House shall adjourn it shall be till ten o'clock to-morrow (Sunday) morning.

The SPEAKER. The House stands adjourned.

THE

BREVIER LEGISLATIVE REPORTS.

THIRTEENTH VOLUME.

INDIANA LEGISLATURE.

IN SENATE.

SATURDAY, December 21, 1872.

The Senators met at two o'clock p.m. pursuant to adjournment, from near midnight last night. President Friedley in the chair.

The House concurrent resolution to adjourn at ten o'clock a. m. to-morrow was amended, on motion of Mr. SLEETH, by striking out ten a. m. and inserting twelve p. m.

The House resolution to appoint a committee to make an investigation in reference to the division of the State into judicial circuits and districts, was laid on the table.

THANKS TO OFFICERS.

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

RESOLVED, That the thanks of the Senate are due the Hon. George W. Friedley for the able, courteous and impartial manner in which he has discharged the duties of President of the Senate.

Resolutions of thanks to D. N. Olive, Secretary, and P. P. Culver, Assistant Secretary, and their assistants, and Captain Pease, Doorkeeper, were adopted.

TAX ASSESSMENT ACT.

Mr. SCOTT offered a concurrent resolution to provide for the publication of a certain act therein named—the tax assessment and collection act.

It was adopted.

Mr. BEESON offered a resolution which was adopted, allowing the doorkeeper one copy of Gavin and Hord's statutes.

NORMAL SCHOOL.

On motion by Mr. SCOTT, the appointments by the Governor of Trustees of the Normal Schools, viz.: Richard W. Thompson to serve six years from December 20, 1869; Barnabas C. Hobbs from December 20, 1869, four years; and Erastus W. H. Ellis to serve four years from December 29, 1869, were confirmed by the Senate.

SENATE FURNITURE.

Mr. CAVE offered a resolution that the doorkeeper make a detailed report of all furniture furnished for the Senate Chamber and the committee rooms, the amount of rent paid for rooms, the number rented, etc.

It was adopted.

VENTILATION.

Mr. SCOTT, from the Special Committee on Ventilation, made a verbal report in which he said: The stoves should be put in front and rear, and strong doors, nearly like these baize doors, would keep out the cold air; and we recommend that these doors be placed there by the Librarian during the recess.

Subsequently, Mr. SCOTT moved that the Librarian make the improvements the Committee on Ventilation recommended.

It was agreed to.

NEW STATE HOUSE.

Mr. SCOTT moved to reconsider the vote of last night, by which the joint resolution in relation to premiums for the new State House, and authorizing the special

committee to visit the capitols of adjoining States, was lost.

Mr. ROSEBRUGH said he was as much in favor of embellishment and ornamentation as anybody, and was in favor of a new State House when the people were able to pay for it. But he did not believe his people were able to stand the expense, and thought the Assembly could get along for a while yet with the present one.

Mr. HALL said he was in favor of a new State House and a good one, but he did not believe the visiting of State Houses in the adjacent States would be of any advantage. He therefore moved to strike out the latter part of the resolution.

Mr. SCOTT said he had no personal interest in the matter, but something must be done. This building will not last much longer without tumbling down. Even if we decide to build a new State House it will be several years before it can be occupied, and the present building is crumbling fast. One tenth of the members are gone all the time from diseases contracted in this old tumble down, and something must be done.

Mr. O'BRIEN did not believe the resolution would effect anything. He said $1,000 would not pay an architect for the labor required in preparing plans for a building of such magnitude as this, and he did not believe in paying a committee $20,000 to go junketing around the country. He therefore moved that the whole subject lie on the table, which prevailed.

Mr. DITTEMORE moved that each Senator be allowed $30 additional worth of stationery and stamps.

The motion was rejected.

An adjournment was made till to-morrow (Sunday) at ten o'clock a. m.

THE

BREVIER LEGISLATIVE REPORTS.

THIRTEENTH VOLUME.

INDIANA LEGISLATURE.

HOUSE OF REPRESENTATIVES.

SATURDAY, December 21, 1872.

The House met at ten o'clock, a. m., and the reading of the Journal of yesterday was dispensed with.

THE SPEAKER.

Mr. OFFUTT, (Mr. Cauthorn being in the chair,) submitted a resolution of thanks to the Honorable William K. Edwards for the able and efficient manner in which he has discharged the duties of Speaker during this session, and that in his retirement from that position at the close of the session, he carries with him the best wishes of every member of the House of Representatives for his personal prosperity. He said: I am sure the House will concur with me in what the resolution expresses, and I think it would be well to pass it by yeas and nays.

Mr. RUMSEY. I know it is unanimous—the yeas and nays would be a useless formality.

On the motion of Mr. KIMBALL the resolution was adopted by the rising vote unanimously.

JUDICIAL APPORTIONMENT.

Mr. WOOLLEN. There was a concurrent resolution offered by me some time ago to make a trial to equalize the judicial apportionment of the State. It was lost when we wanted it yesterday, but I understand from the Clerk that it has been recovered. If the House consent, I would like to have the resolution taken up.

There being no objection, it was read by the Clerk.

It proposes the appointment of a joint Select Committee of nine members of the General Assembly—six on the part of the House of Representatives, and three on the part of the Senate—distributed equally as near as possible throughout the different counties of the State, whose duty it shall be to apportion and equalize as near as may be, the several Judicial Districts and Circuits, the Circuits to be formed on a basis of not less than 60,000 inhabitants—the time of the Judges in the Courts to be at least forty weeks in each year. Said Circuits to be made with respect to the present residence of the Judges; the committee to sit during the vacation between this and the regular session, and that each member thereof be allowed five dollars per day.

Mr. WOOLLEN. I felt before I came here, and I believe it is the unanimous feeling of the people, that something ought to be done by the Legislature to equalize the labor of the judges with a view to raising their compensation. I do not know that it would require an increase of the number of the judges. And there is another thing—as little expense as possible should be charged to the State till we shall see whether anything can be accomplished. I would like to have the opinion of the House. My idea was this: that this committee should address letters to the judges, asking them to meet the committee in this city on a certain day before the regular session, and talk with them of

the expediency and possibilities of rearranging the circuits and districts. The judges might come by the first of January and sit till the next session. I would like to have the opinion of the House as to what good can come out of the proposed committee.

Mr. GIVAN. I heartily concur in the object of the resolution. We have probably the most expensive and abominable judicial apportionment and judicial system that can be conceived. As to the basis of 60,000, it is too large.

Mr. WOOLLEN. I propose no rule. I put that in as a basis. The committee would not be compelled to follow it.

Mr. GIVAN. That ratio would make the circuits too large, especially if we abolish the Common Pleas. [Mr. Woollen, in his seat: That will not be done.] The object being two-fold—to equalize the labor and to increase the compensation of the judges. I do not know any better way to proceed than that in the resolution. The proposition should certainly be before us in the early part of the regular session.

Mr. MELLETT. As to whether this is the proper time to consider this subject, I do not know. I think I know one thing, and that is, the time of members has been pretty well occupied during the present session. As to the necessity for the work of the Courts being done promptly, there can be no doubt. There is no question about the fact, that we have more Circuits than we need; and that they are unequally distributed if we have the proper number. During the past few years a great many new Circuits and Districts have been formed simply by cutting one in two. I have known a great many instances of that kind, and that shows upon its face that we are making districts smaller than they should be: one Judge has had too much work, and by making two circuits for his relief the circuits have been made too small, and that is the only way it could be done without redistricting the State. I think the fewer circuits and Judges, the more hard the work, the better Judges we will have on the bench. If the Judge's time is all occupied, as much as his strength will bear, his entire attention is rivetted upon the one subject of his calling, whilst, if he occupy but half his time on the bench, for the other half he is occupied with things outside of his profession; but if he were engaged all the time holding Court, he would be occupied with his profession and constantly improving himself therein. Judge Bicknell, for example, has eight counties, and he probably does more work than any one Judge in the State, for the reason that his entire time is devoted. He has reduced his profession to a science; and I will guarantee that you have better work in his circuit than in any other circuit in the State. Then there are other Judges who don't do half the work, but they all draw the same pay. If we raise the salary it is absolutely necessary that we reduce the number of Judges. This proposition, I believe, will work a great saving to the taxpayer, and bring our practice into better repute. And, if it should be deemed necessary that this committee should be appointed now, I am in favor of the resolution.

Mr. SHIRLEY. I do not wish to discuss the merits of the resolution. I am in favor of it, and I simply rise to offer an amendment by proposing a clause "to instruct the committee to invite, by notice in the *Journal* and *Sentinel*, the Judges of the District and Circuit Courts to meet in this city with the committee and give them the benefit of their advice."

Mr. MILLER. I am decidedly in favor of the object sought to be accomplished, but I very much question whether we are beginning in the right way. There is universal complaint that our judicial system is not what it should be. My idea is that we had better first determine what kind of a system we will have. There is a proposition to dispense with the Common Pleas; and it is perhaps only in this way that we will be able to establish a proper system. As it is, the terms of the Common Pleas ought to be held between the terms of the Circuit Courts, to accommodate appeals; and it will become a grave question whether the one or the other court shall give way. My idea would be first to establish these points, whether we are going to have a Common Pleas and Probate in each county, or whether we are going to have an undivided court; and in either case it would involve a redistricting of the State. But if we abolish the Common Pleas, then there would be no necessity for a redistricting. I am opposed to the appointment of this committee, simply because it will result in continuing our present pernicious system.

Mr. SATTERWHITE. Would it be possible for this committee to legislate any judge out of office?

The SPEAKER. No, they could not do that.

Mr. MELLETT. We can't reduce their number, but we might reduce their time. But if we could reduce their number we would have a better system of justice. I should like to vote for a bill to raise the salaries of judges like Judge Bicknell, but

not of those who devote half their time to farming or fishing.

Mr. GIVAN. I think it would be a good thing for some of the judges to lay idle more than they do. My idea is that you would do better to abolish the Common Pleas and have a Surrogate system, so that the judges may be occupied all their time in the larger counties and the adjoining smaller counties in the same district. It seems to me that would be much cheaper. The expensiveness of our system is not so much in the salary of the judges as in the expenses of the litigants by frequent attendance and delays.

Mr. WOOLLEN. The resolution does not contemplate legislating the judges out, but to equalize the labor amongst them. Our proposition here is to pay the Common Pleas judges out of the State Treasury, and so long as that is done it is absolutely necessary that the labor should be equalized.

The resolution was adopted on the part of the House of Representatives.

THE ADJOURNMENT SINE DIE.

Mr. TULLY submitted a concurrent resolution (which was adopted on the part of the House of Representatives), that this session of the General Assembly shall be adjourned to-morrow (Sunday) morning at ten o'clock.

Mr. LENFESTY submitted a resolution for the tender of the thanks of the House of Representatives to officers, reporters and employes for their promptness and efficiency, adding good wishes, which was adopted without dissent.

Mr. SHIRLEY and Mr. FURNAS had drawn, and were ready to offer, similar resolutions.

Mr. PFRIMMER submitted the following:

WHEREAS, capital punishment is abhorred by the intelligence of the age, and forbidden by every noble impulse of the human heart, therefore—

RESOLVED, by the General Assembly, that the Governor be requested to commute, with imprisonment for life, the punishment of every person now under sentence of death in the State of Indiana.

On the motion of Mr. MILLER, it was laid on the table.

Mr. SHIRLEY seeing that nothing more is likely to be proposed or called up, moved that the House adjourn till two o'clock, and that members living at a distance who desire to return home by the afternoon trains be allowed to do so.

The SPEAKER. The Governor will have a communication for the House this afternoon.

The motion was adopted by unanimous consent.

The House then took a recess till two o'clock p. m.

AFTERNOON SESSION.

The SPEAKER resumed the chair at two o'clock p. m.

A message from the Senate announced the recession of that body from their disagreement to the House amendments to the Public Buildings bill.

JUDICIAL APPORTIONMENT.

On motion of Mr. WOOLLEN, his concurrent resolution for a joint select committee to rearrange the judicial districts was taken up by unanimous consent, as by reconsideration of the vote on its adoption by the House of Representatives, and he moved to amend it by striking out the words which make it a concurred resolution.

The SPEAKER. It provides for six members of the committee on the part of the House—how many will the gentleman have?

Mr. WOOLLEN. Nine members of the House appointed by the Speaker.

The amendment was agreed to making it an order of the House of Representatives.

And so the resolution was adopted.

A message was received from the Governor by the hand of Captain John M. Commons, his private Secretary, with information that His Excellency had approved, signed and filed in the office of the Secretary of State, sundry acts and joint resolutions originating in the House of Representatives.

A message from the Senate informed the House of Representatives that that body has concurred in the House concurrent resolution to adjourn sine die to-morrow at ten o'clock, a. m., with an amendment to read: "12 o'clock, midnight." Also, that that body has passed a concurrent resolution for a joint select committee of nine for re-arrangement of the judicial districts and circuits of the State, and report a bill for that purpose to the two Houses of the General Assembly at the next session. [It is identical with Mr. Woollen's.]

The Senate judicial concurrent resolution was taken up and adopted without a division.

Mr. WOOLLEN. As my resolution is now superceded by this action of the House I suppose it would be proper to ask that the action just taken on my resolution be omitted in the journal.

The SPEAKER. It will be so ordered by consent.

STATE'S PROPERTY.

Mr. KIMBALL submitted a resolution for an order (which was adopted) that the door-keeper be directed to take charge of the property belonging to the State in the different committee rooms of the House, so that the same shall not be lost to the State.

SUNDAY SESSION.

Mr. KIMBALL submitted a motion (which was adopted) that when the House shall adjourn, to-day, it shall be till ten o'clock to-morrow morning: whereupon Messrs. Johnson and Edwards, of Lawrence, were appointed a special committee to secure the attendance of a minister of the gospel to open the sessions with prayers.

ASSESSMENT ACT.

A message from the Senate announced a concurrent resolution of that body directing the Secretary of State to cause to be printed 1,000 copies of the Assessment act in pamphlet form, and that six copies thereof be transmitted, without delay, to each of the County Auditors in the State for the use of county officers.

The resolution communicated with the foregoing message was taken up and concurred in on the part of the House of Representatives.

The House then adjourned till to-morrow (Sunday) at ten o'clock a. m.

THE

BREVIER LEGISLATIVE REPORTS.

THIRTEENTH VOLUME.

INDIANA LEGISLATURE.

IN SENATE.

SUNDAY, December 22, 1872.

Senators met at ten o'clock a. m. pursuant to adjournment.

The PRESIDENT of the Senate announced the first thing in order to be the reading of the Journal of yesterday's proceedings.

On motion it was dispensed with.

Mr. DAGGY moved that a committee of three be appointed to wait on the Governor and ascertain whether he has any further communications to make to the General Assembly.

The motion was agreed to, and Messrs. Daggy, Dittemore and Beardsley were appointed.

Soon thereafter—

Mr. DAGGY, in behalf of the committee, reported that the Governor has no further communication to make to this session of the General Assembly.

Mr. BEARDSLEY moved to adjourn.

The motion was agreed to, with the understanding that the adjournment was only till two o'clock p. m.

AFTERNOON SESSION.

Senators met at two o'clock.

Mr. DAGGY moved that the Secretary be sent to the House of Representatives to inquire whether it has any further messages for the Senate.

The motion was agreed to.

A message from the House announced that that body had no further business to transact with the Senate during the present session.

On motion it was—

Ordered, that the Senate proceed in a body to the Hall of the House of Representatives to witness the closing exercises there.

The Secretary was directed to inform the House of the action of this body.

Mr. WADGE moved that the Senate take a recess till half-past seven o'clock p. m.

The motion was agreed to—five Senators voting in the affirmative and three in the negative.

NIGHT SESSION.

Senators assembled at 7:30.

Mr. DITTEMORE offered the following:

RESOLVED, That the select committee of three to investigate the cause of the failure of the Auditor of State to distribute the sinking fund of the State to the various counties under the act of 1871 be authorized to continue its investigations after the adjournment of the present session, and report its investigations to the next session of the General Assembly; and the said committee shall have for their services during the time they shall be actually engaged, the same compensation allowed members of the General Assembly.

The resolution was adopted.

Mr. DITTEMORE also offered the following:

RESOLVED, That Henry Coleman be paid the sum of ten dollars for washing towels during the present session of the General Assembly, and that the President of the Senate draw a warrant on the Treasurer of State for the amount.

The resolution was adopted.

Mr. BROWN moved that the Senate adjourn, whereupon President FRIEDLEY spoke as follows:

THE PRESIDENT'S FAREWELL ADDRESS.

GENTLEMEN OF THE SENATE:

Before putting the motion I desire to say a single word. I have no language adequate to express the gratitude I feel toward you for your kindness during the session just closed, and especially for the very complimentary manner in which you saw proper to mention my name in the resolution adopted yesterday. When, by your kindness, I was, at the beginning of the session, selected as your presiding officer, I was wholly without experience, and if I have been, in any degree, successful in the discharge of the duties of the position, I must attribute that success to your constant assistance. That I have made mistakes I freely admit, but I beg Senators to believe that they have been mistakes of the head and not of the heart. My relations, both personal and official, have been of the most agreeable character with every Senator on this floor, and the friendship that we have formed, while here, will always be cherished by me with feelings of the most lively satisfaction. And now that we are about to separate to enjoy the Christmas of 1872 and the New Year of 1873, with our families and friends at home, I beg to express the wish that that Christmas may be a merry one and that New Year a happy one with each of you. May sorrow and sadness never cast their dark shadow over your homes. I thank you. [Applause.]

It is moved and seconded that the Senate do now adjourn. As many as favor that motion will please say "aye." [After the affirmative response.] As many as are of a contrary opinion say "no." [There was no response.] The Senate stands adjourned.

And so terminated the Senate proceedings at the Special Session of 1872.

THE

BREVIER LEGISLATIVE REPORTS

THIRTEENTH VOLUME.

INDIANA LEGISLATURE.

HOUSE OF REPRESENTATIVES

SUNDAY, December 22, 1872.

The House met at ten o'clock, a. m.

The SPEAKER. The Clerk will read the journal of yesterday.

On the motion of Mr. JOHNSON, the reading was dispensed with.

THE PRAYERS.

The SPEAKER. Prayer will now be offered by the Rev. Mr. Green, of this city.

Rev. Mr. GREEN: Let us pray. Almighty and Eternal God, Thou art our Father and Creator. Thou art the Author and Preserver of our being, and in Thee we live and move and have our being. Thou hast made it our duty and our privilege to supplicate Thy throne of favor, praying to Thee day and night for the things we need, acknowledging the hand of Thy Providence, and asking for Thy blessing in all our doings. We pray Thee to meet us in Thy mercies this morning. Grant that Thy blessing may rest on the members of this Legislature who are to-day bringing the labors of their session to a close. We thank Thee for the favor that has attended them and rested on their proceedings in the past, and we pray that all that has been wise and just and true in their transactions here may promote the interests of those they represent, and result in Thy glory and the prosperity of this commonwealth. Let Thy blessing attend them to-day. Grant that in their proceedings this day Thy presence may be felt. Since it has been determined that this session shall terminate on this day—the day that the Lord hath made a Sabbath—grant that the spirit of the Sabbath may be with them, and that the spirit of peace and good will may rest upon them. Be with them in their departure hence. Conduct them to their homes in safety, and bless them in all their varied circumstances and conditions in this life, and at last, in the great and final day, when Thou shalt gather all the nations to be judged according to the deeds done in the body, may they all be found justified in Christ—sanctified by His Spirit and justified by His blood—and be with Him in that blissful state beyond forever more. All of which we ask in the name of Jesus Christ, our Redeemer. Amen.

The SPEAKER. I learn that the Senate has adjourned till two o'clock. There is no law to prescribe the time of day for the adjournment, but it will be safe to await the action of the Senate.

On the motion of Mr. COBB, the House took a recess till two o'clock, p. m.

AFTERNOON SESSION.

The House met at two o'clock p. m.

CLOSING COMPELLATIONS.

A message was received from the Senate to notify the House of Representatives that the Senate has no further communication to report, and inquiring whether the House has any further business to communicate during the present session.

Mr. COBB submitted a resolution for an order (which was adopted) to inform the

Senate that the House has no further business to communicate.

Mr. THOMPSON, of Elkhart, submitted a resolution for an order (which was adopted) that a committee of three be appointed to wait upon His Excellency the Governor and inquire whether he has any further communication to make to the House during the present session.

The SPEAKER made said committee to consist of Messrs. Thompson of Elkhart, Cobb and McConnell.

A later message from the Senate, by their Secretary, informing the House that the Senate will immediately repair to the House of Representatives to witness the closing ceremonies of the session, and respectfully requesting the House of Representatives to repair to the Senate for the same purpose, was also received and read by the messenger.

Mr. THOMPSON, of Elkhart, from the Special Committe to wait on the Governor, etc., reported the discharge of that duty, and that the Governor returned for answer, that he has no further communication.

Mr. COBB moved that the House do now adjourn sine die; whereupon the SPEAKER said:

GENTLEMEN OF THE HOUSE OF REPRESENTATIVES:

The diligent attention you have bestowed to consider and mature the proceedings of this session is marked by legislative ability and fidelity to the interests of those whose confidence you represent.

The work in progress, to be completed by the general session, with the important business enacted, warrant the call of the Governor convening this special session.

The courtesy you have so generously extended to each other, and with so much kindness to me, in discharge of the arduous and delicate responsibilities of this position, the resolution of approval you adopted overlooking all errors, commands me willingly to appreciate your favors as a body, with the highest regard for each of you personally.

The officers, especially those more directly connected with me around this desk, have pleasantly and correctly performed their several duties with entire satisfaction.

Wishing you a happy return to your homes, I now have to discharge the last duty devolving upon me, by your order. With the concurrence of the Senate, I declare this House adjourned sine die, (from twelve o'clock to-night.)

So this special session of the House of Representatives of the Forty-eighth General Assembly was adjourned without day.

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ERRATA.

The printer transposed a galley of matter by setting it backward from page 257 into page 253, making a sentence break in Representative Cauthorn's remarks on the Railroad Returns Bill, and Senator Thompson's remarks on Senator Carnahan's resolution.

APPENDIX

TO THE

BREVIER LEGISLATIVE REPORTS.

THIRTEENTH VOLUME.

MESSAGE

OF

GOVERNOR CONRAD BAKER,

TO THE

GENERAL ASSEMBLY OF INDIANA.

TRANSMITTED TO THE SPECIAL SESSION, NOVEMBER 14, 1872.

INDIANAPOLIS:
W. H. DRAPIER, PRINTER, JOURNAL OF COMMERCE BUILDING.
1872.

MESSAGE.

Gentlemen of the Senate and House of Representatives:

The growth of the State in populatiou and wealth, and the consequent increased diversity and importance of the subjects and interests requiring legislative supervision and protection, render it impracticable for the General Assembly to transact all the business demanding its attention during its regular biennial sessions (limited as these are by the Constitution to the term of sixty-one days each), even when nothing extraordinary occurs to impede and prevent legislation. When, however, to these considerations the fact is added, that the last three sessions were all prematurely and abruptly terminated by the resignation of members, and by reason thereof much important and necessary legislation failed to be enacted, no other reason need be offered in explanation of the exercise of the Constitutional power of calling you together at this time in special session.

COMPLETION OF UNFINISHED BUSINESS OF ONE SESSION BY ANOTHER.

The act of March 4, 1865, entitled "An act providing for the completion of the unfinished business of any session of the General Assembly by the next succeeding special session of the same General Assembly," ought to be promptly amended. As it now stands, the unfinished business of any regular or special session which is succeeded by a *special* session of the same General Assembly may be taken up and completed by such special session; but, when a special session is succeeded by a regular session of the same General

Assembly, there is no provision that the latter may take up and complete the business of the former. This amendment is necessary to enable you at your approaching regular session to complete the business which may be left in an unfinished condition at the close of the present special session.

THE GARRETT SUIT AGAINST THE WABASH AND ERIE CANAL.

Those of you who were members of the last General Assembly will remember that in my regular message, delivered at the commencement of that session, I called especial attention to the fact that a suit had been commenced in the Circuit Court of Carroll county, by John W. Garrett, Esq., to enforce against the Wabash and Erie Canal an alleged lien, created by the State prior to 1841, and held by Garrett and others, for whose benefit the suit is brought.

The State, between the years 1834 and 1841, issued a large number of bonds for internal improvement purposes. One hundred and ninety-one of these bonds, or thereabouts, of $1,000 each, exclusive of interest, are still outstanding, the rest having been surrendered under the legislation of 1846 and 1847, commonly called the "Butler Bill."

Mr. Garrett assumes to be, and I suppose is, the holder of forty-one of these one hundred and ninety-one old bonds, and he sues for himself as well as for the holders of the residue, to enforce a lien on the Canal and its revenues, which, it is alleged, was created by the legislation under which the bonds were issued.

Hon. Horace P. Biddle, Judge of the Court, on the hearing of a demurrer in the cause, decided that the bonds were a lien on the Canal paramount to the title of the Trustees, derived from the State in 1847 under the "Butler Bill," and I am fully satisfied that the decision was a correct one. Garrett's action has been removed by a *change of venue* from the Circuit Court of Carroll county to the Circuit Court of Cass county, where it is now pending. The term of the Cass Circuit Court commenced two days ago, viz., on the 11th instant, and a judgment may be rendered in a very short time, subjecting the Canal or its revenues to the satisfaction of the claim. The State is not a party to the suit and can not, therefore, exercise the right of appeal, nor can she, under existing legislation, insist that the Trustees shall appeal if they do not desire to do so; and if even the Trustees should desire to appeal, they might not be able to stay the execution of the judgment by giving the necessary appeal

bond and security in the absence of any provision by the State for indemnifying the sureties in the appeal bond. Under these circumstances, it is of the highest moment that the subject should receive immediate consideration by you.

I quote from my last regular message the following extracts as expressive of my present views on the subject:

"If these bonds are a lien on the Wabash and Erie Canal, as I believe them to be, the State can not afford to permit the title of the Trutsees to be divested or their possession and control of the Canal and its revenues to be interrupted by the judicial enforcement of said lien. To prevent this, provision should be made to pay out of the Treasury of the State such of said one hundred and ninety-one bonds as may be adjudged to be a lien on the Canal and its revenues whenever it may become necessary to make such payment in order to prevent the Canal or its revenues from being subjected to the satisfaction of the lien. Indeed, independently of this lien altogether, I do not see how the State can honorably refuse to redeem these few outstanding Internal Improvement Bonds. They were issued by the State, and the faith of the State was pledged for their redemption, and this pledge can not be disregarded or set aside without the consent of both parties to the contract, if the State has the ability to redeem the pledge, of which there can be no doubt. If the holders of the bonds had surrendered them under the Butler Bill, as other holders surrendered theirs, and agreed to look exclusively to the revenues of the Canal for one-half of their debt, this would have been a new contract, and the State could not be justly complained of for insisting on its execution. But the holders of the bonds now under consideration have continuously refused to surrender them under the adjustment proposed by the Butler Bill, and the State can not compel them to do so, nor can she refuse to pay them without repudiating her plighted faith.

"If the State should stand by and permit the Canal or its revenues to be wrested from the hands of the Canal Trustees, to satisfy a paramount lien created by the State itself prior to the conveyance of the Canal to said Trustees, then, indeed, might the holders of the Canal stocks, with some show of reason, claim that the State should redeem the many millions of dollars of Canal stocks which, under the existing arrangement, are exclusively charged upon the Canal and for which the State is in no way bound.

"I hope that you will promptly adopt such measures as will forever prevent the possibility of the trust being disturbed or impaired by

the enforcement of this lien. It is both right and expedient that the State should thus protect the trust property, and I also recommend that the State relieve the Board of Canal Trustees from all the expenses of the litigation to which they have been or may be subjected to in defending the trust property from the attempt made to subject it to the satisfaction of said lien."

Sixty-nine of these one hundred and ninety-one old bonds are held by the Interior Department of the General Government, and I herewith respectfully submit to you a copy of an official communication written to me under date March 25, 1872, by Hon. Columbus Delano, Secretary of that Department, in relation to the unpaid interest due on the sixty-nine bonds last mentioned.

CONSTITUTIONAL AMENDMENT IN RELATION TO CANAL DEBT.

The last General Assembly passed a joint resolution proposing an amendment to the Constitution of this State in relation to the debt charged upon the Wabash and Erie Canal under the adjustment made by the State with her creditors in 1847.

The proposed amendment provides that no law or resolution shall ever be passed by the General Assembly of the State of Indiana that shall recognize any liability of the State to pay or redeem any certificate of stock issued in pursuance of "An act to provide for the funded debt of the State of Indiana, and for the completion of the Wabash and Erie Canal to Evansville," passed January 19th, 1846, and an act supplemental to said act, passed January 29th, 1847, which, by the provisions of the said acts, or either of them, shall be payable exclusively from the proceeds of the Canal lands, and the tolls and revenues of the Canal in said acts mentioned, and no such certificate of stocks shall ever be paid by this State. I earnestly recommend that the amendment, the substance of which I have just stated be promptly agreed to and adopted by the present General Assembly at this session, and that provision be made by law for its speedy submission to the people for ratification. Having heretofore so fully discussed the questions involved in the proposed amendment, I do not deem it expedient or necessary now to reiterate my opinions or the arguments urged in support of them, but content myself by saying, that the views expressed in my last regular message on the subject of the Canal debt, and the necessity and propriety of such an amendment to the Constitution, remain unchanged. To the end that these views may be conveniently accessible to all of

you, I will cause a pamphlet copy of the message alluded to, to be addressed and delivered to every member of this General Assembly. The fact was brought to my notice some time since that the printed journals of the Senate and House of Representatives of the last General Assembly do not show that the proposed amendment, with the yeas and nays thereon, was entered on the Journal of either House, and consequently, doubt has been expressed as to the validity of the proceedings connected with its adoption.

The Constitution provides that amendments may be proposed in either branch of the General Assembly, and if the same shall be agreed to by a majority of the members elected to each of the two Houses, such proposed amendment or amendments, shall, with the yeas and nays thereon, be entered on their journals and referred to the General Assembly to be chosen at the next general election; and if in the General Assembly so next chosen, such proposed amendment or amendments shall be agreed to by a majority of all the members elected to each House, then it shall be the duty of the General Assembly to submit such amendment or amendments to the electors, etc. An inspection of the printed journals will show that the yeas and nays were called and recorded on the passage of the joint resolution in both Houses; that it passed the Senate by a vote of forty-five yeas to one nay; that it passed the House by a unanimous vote, ninety-three members voting for, and none against it. The Joint Resolution was duly enrolled, signed by the President of the Senate, and the Speaker of the House of Representatives, and is deposited in the office of the Secretary of State, and was printed and published with the laws passed at the same session. Under these circumstances, I am clear in the opinion that the omission to spread the amendment at large on the journals does not vitiate it. The provision which says that the amendment shall be entered on the journals, if indeed it means that it shall be copied at full length, is at most only directory and not mandatory, and consequently the amendment, if passed by the present General Assembly and ratified by the people, will be valid as a part of the Constitution.

In this connection, I desire to call attention to the fact that the original manuscript journals of the Senate and House of Representatives are not preserved, but are sent to the Public Printer and used as copy from which to print, and then destroyed. The journals are printed after the adjournment of the General Assembly under the supervision of the Secretary of the Senate and the Clerk of the House respectively, and as the original manuscript is destroyed after

the proof is read, there is no possible means of detecting or correcting any omission or mistake which might be made in the printed volume. I respectfully suggest that this practice ought to be discontinued and that the original manuscript journals should be bound in permanent form and preserved in the office of the Secretary of State and copies thereof furnished to the printer.

THE LATE NORMAN EDDY.

On the 28th day of January of the present year, Colonel Norman Eddy, Secretary of State, departed this life at his residence in this city, after having faithfully performed the duties of that office for about one year, or half the term for which he was elected. The singular beauty and integrity of Col. Eddy's public and private life, his gallant services as a soldier of the Union in the war to suppress the late rebellion, and the industry, fidelity and skill with which he performed the duties of the many public trusts to which he was called, render it fitting that I should leave on record this brief tribute to his memory. He died in circumstances by no means affluent, and Col. John H. Farquhar, whom I appointed to fill the vacancy, appointed Mr. Owen M. Eddy, son of the deceased Secretary, his deputy, and generously allowed the entire salary and all the perquisites of the office to go to the widow and family of his deceased predecessor. Although the labors of the office have been mainly performed by the deputy, its responsibilities and some of its cares and duties, have necessarily fallen upon Col. Farquhar, and I would consider myself remiss in duty if I did not thus publicly express my grateful appreciation of his conduct. May the bread which he has thus cast upon the waters be found by him or his, though it should be after many days.

FEES AND SALARIES.

The act of February 21, 1871, entitled "An act regulating the fees, salaries and duties of certain officers therein named, and prescribing penalties for the violation of its provisions," has proved to be a very defective and ill considered piece of legislation. Some of the provisions of the act are of such doubtful constitutionality that a portion of the Circuit and Common Pleas Judges have held them to be null and void, while the Judges of other circuits and districts have adjudged the same provisions to be constitutional. The Judges

of the Supreme Court itself are equally divided on one or more of these questions, and therefore unable to reverse conflicting and contradictory decisions of the lower courts. The result is not only that we have all the evils of local legislation by having one law or rule of action in one county or circuit and another law or rule of action in the adjoining county or circuit, but diverse rules prevail in the same county where the Judges of the courts thereof differ in opinion as to the constitutionality of certain provisions of the act. This evil is even greater than the extortions that were practiced under the former law, and if a satisfactory fee and salary bill of unquestionable constitutionality can not be perfected and passed at the present session, it would be better to repeal the act alluded to and revive the old law which was supplanted by it, than to suffer longer under existing evils. There can be no question that the former law needed revision, and its revival could only be justified as a temporary expedient, until a just, constitutional and satisfactory measure can be perfected and passed. I respectfully recommend that a commission to consist of five or more experienced and competent persons be appointed with the least practicable delay, to prepare and report a fee and salary bill to the General Assembly for its consideration at the approaching regular session. The fact that the Judges of the Supreme Court are equally divided as to the constitutionality of some of the provisions of the present fee bill shows the necessity of having an odd instead of an even number of Judges on the bench of that Court. I, therefore, for this and other reasons, renew the recommendation made at the last session of the General Assembly, that provision be made for the addition of another Judge to the bench of the Supreme Court, so that the whole number of Judges shall be five instead of four. I also earnestly repeat the recommendation that the Judges of that court be allowed salaries commensurate with the dignity of their positions, and the learning and industry necessary for the performance of the duties of these positions. As I shall never again have a personal interest in the Governor's salary, I may now also be permitted to speak on that subject. For the credit of the State, and in justice to my successors, immediate and remote, I trust you will, before the commencement of the term of the Governor elect, provide a fixed and adequate salary for the office. If this matter is not attended to at this session, or before my successor shall have assumed the duties of the office, it can not be during his incumbency. The sum allowed should be fixed by the law-making power, but should be in the alternative; that is, so

much as long as the State does not provide the Governor with a furnished residence, and a less sum if such a furnished residence is provided, and kept furnished and in repair by the State. I do not hesitate, after an experience of nearly six years, to say that if the Governor shall be required to provide his own residence, furnish it, and keep it in repair, eight thousand dollars per annum is as small a sum as should be contemplated; and if a furnished dwelling is provided by the State, the salary ought not to be less than five thousand dollars. I trust that no one upon whom the people may hereafter confer the office will be subjected to the annoyance which I have suffered in this connection.

CONSTITUTIONAL CONVENTION.

It is now more than twenty-one years since the present Constitution became the fundamental law of Indiana, and in my judgment the time has come when the best interests of the State require that provision should be made for calling a convention to be elected by the people, for the purpose of revising and amending that instrument.

The thirteenth article, and all the other provisions of our Constitution which sought to degrade men and put them under the public ban because the complexion of their skins did not happen to conform to the approved Caucasian standard, are a reproach to the State, and ought to be stricken out by command of the sovereign people themselves. It is true that these provisions are now a dead letter, but they are still in the Constitution, and printed with it every time a new edition of that instrument is published, the standing witness of our ignorance of, or indifference to human rights, until God scourged us into their recognition by the dread calamity of civil war. Under the Constitution as it now is, it is impossible to have an election law that will be efficient in preventing fraudulent voting. As long as the Constitution neither prescribes nor allows the Legislature to prescribe some term of previous residence, in the county, township, or precinct, as a pre-requisite to the exercise of the right of suffrage, all efforts to prevent the importation of fraudulent voters must be nugatory. The Constitution itself ought to prescribe some term of residence in the proper locality as a condition precedent to the right to vote.

There is little ground of hope that our judicial system will be reformed and adapted to the wants of the people until the Constitution shall itself have been remodeled, and it would require the exercise of

superior ingenuity to devise a worse judicial system than that under which we now suffer. There is at present a great demand for civil service reform in the General Government, and in reference thereto, I join in the hope that the hand of reform may not be stayed until the nearest appoach to perfection possible in human affairs shall have been attained. I think, however, that the civil service of the State is not so perfect as to justify us in giving all our attention to that of the country at large. The management of our Benevolent, Reformatory and Penal Institutions is liable to be revolutionized by the triumph of this party or that at any general election. This ought not so to be, and there can be no effectual remedy without an amendment to the Constitution. The directors or managers of these institutions should hold for longer official terms than the Legislature is permitted to create, and a portion of them should go out every year, or every two years, so that the government thereof would be raised above the mutations of mere party and the requisite experience would always be preserved.

The Judges of the Supreme Court, too, are all elected at the same time and for the same term of years, and always succeed as the nominees of a political party. The tendency of this is to make the judges partisans, and the fact that every sixth year the bench may be politically revolutionized, creates a temptation on the part of the successful candidates to attempt to secure favor with their party by undoing much of what their politically heterodox prodecessors have done. That in point of fact, we have had so little of this to complain of, is greatly to the credit of the judges who have from time to time succeeded to the bench, but the system itself is none the less vicious. If the judiciary ought to be elected by the people at all, a proposition, by the way, which I do not think experience has sanctioned, a portion only of the judges of the Supreme Court should retire and their successors be elected at the same time, so that the probabilities of the existence of a partisan bench would be diminished, and so that the Court would never be without judges of experience and familiar with the duties of the particular position.

If this General Assembly should see proper to provide for calling a Constitutional Convention, I do not think it should, on that account, omit to adopt and submit to the people for ratification, the pending amendment in relation to the canal debt. Let that amendment by all means be adopted, and it can be submitted, without additional expense to the people, for ratification at the same election at which the delegates to the Convention shall be chosen, and if it is

ratified, as assuredly it will be, the popular vote ratifying it will be an imperative instruction to the Convention to put a similar provision in the revised Constitution. Besides this, the pending amendment, if thus adopted and ratified, would bind the Legislature until the new Constitution shall have been approved by the people, and also provide against the possible contingency of the Convention framing such a Constitution as the people might reject.

ADDITIONAL PROVISIONS FOR THE INSANE.

The Indiana Hospital for the Insane has a capacity for about 490 patients, although by crowding it 520 patients have been in the institution at the same time. Experience proves that it ought not to be thus crowded. By making the additions and improvements suggested by the Superintendent in his report, the capacity of the institution can be so enlarged as to accommodate 600 patients, that being an addition to the present capacity of the buildings of rooms sufficient for 110 patients. The estimated cost of these additions and improvements is $50,000, a much less sum than would provide for the same number of patients in the erection of a new institution. For this reason, and because of the pressing necessity for increased accommodations for the insane, I urgently recommend that an appropriation of the sum named above be made at the present session, and with as little delay as practicable, so that the capacity of the Hospital may be increased at the earliest possible day. By doing this, however, the State will not have performed her duty to the insane within her borders. When the capacity of the present Hospital shall have been increased so as to accommodate 600 patients, there will undoubtedly be 1,000 insane persons within the State who ought to have the care and treatment afforded by such an institution, still unprovided for. To properly provide for these, the State needs two other Hospitals, each having a capacity for the accommodation of at least 500 patients. The State should be divided into three Hospital districts, viz.: a central, a northern and a southern. One new Hospital should be established as near the center of the northern and another as near the center of the southern district as may be found practicable. The State of Ohio already has five such institutions. To erect, furnish and equip two additional Hospitals for the Insane, each having a capacity for 500 patients, will cost about $1,000,000; but our people can better afford to furnish this amount within the next three years than they can allow the State to fall be-

hind her sister States in providing for this unfortunate class of her citizens. The idea that those who are supposed to be incurably insane should be provided for in separate institutions has been exploded by experience, and I trust will find no favor in the action which you may take on the subject. At least one new Hospital should be erected as soon as possible, and provision for all the insane who need care and treatment should be secured at no distant day.

TIPPECANOE BATTLE GROUND.

The Constitution of Indiana declares, that it shall be the duty of the General Assembly to provide for the permanent inclosure and preservation of the Tippecanoe Battle Ground. Allow me to call your attention to the fact that this duty has never been performed by your predecessors. The Battle Ground never was permanently inclosed by the State, and the temporary fence by which it was once surrounded has long since disappeared. It is the property of the State, and full of historic interest, and as the people have enjoined in their Constitution that it shall be permanently inclosed and preserved, I can imagine no valid excuse for a failure to obey this injunction.

TREATY OF WASHINGTON.

By the Twenty-seventh Article of the Treaty of Washington, concluded between the United States and Great Britain, May 8, 1871, the Government of Her Britannic Majesty engages to urge upon the Government of the Dominion of Canada to secure to the citizens of the United States the use of the Welland, St. Lawrence and other canals in the Dominion on terms of equality with the inhabitants of the Dominion; and the Government of the United States engages that the subjects of Her Britannic Majesty shall enjoy the use of the St. Clair Flats Canal on terms of equality with the inhabitants of the United States, and further engages to urge upon the State Governments to secure to the subjects of Her Britannic Majesty the use of the several State canals connected with the navigation of the lakes or rivers traversed by or contiguous to the boundary line between the possessions of the high contracting parties on terms of equality with the inhabitants of the United States.

I herewith respectfully submit for your consideration a copy of an official communication from the President of the United States to

myself, calling attention to the provisions of the above mentioned article of said Treaty, and urging upon the State Government of this State to secure to the subjects of Her Britannic Majesty the use of the State canals within the State of Indiana connected with the navigation of the lakes or rivers traversed by or contiguous to the boundary line between the possessions of the United States and those of Her Britannic Majesty in North America on terms of equality with the inhabitants of the United States.

I commend the subject to your careful attention, in the hope that it may be found practicable to adopt such legislation as will accomplish the object suggested by the President in said communication.

HOUSE OF REFUGE.

The House of Refuge, near Plainfield, has been very successful in performing the good work for which it was established, although it has had to encounter many obstacles. For some three years it has had two hundred or more inmates, but the appropriations for its current expenses were made upon the basis, and intended for the support of but a few more than half that number. At the commencement of the last session of the Legislature a debt of $10,000 for borrowed money had accrued, owing to the deficiency in the appropriations, and this debt has since been added to until it now amounts to $18,881. Besides this loan, the institution is indebted to supplies to the amout of about $3,500, making a total indebtedness of $22,881. It will require about $4,000 to meet the expenses of the institution up to the first day of April next, the end of its fiscal year. I therefore ask that an appropriation of $26,881 be made to this institution with the least practicable delay, to enable it to discharge the present indebtedness and defray current expenses to the end of the fiscal year. I herewith respectfully submit a special report of the Board of Control of the House of Refuge, in which the foregoing matters are more fully explained. Provision should also be made to enlarge the institution so as to double its present capacity. The eleventh section of the act creating the institution ought to be repealed. That section authorizes the sentencing of boys to the House of Refuge for any determinate period, not extending beyond the time when they shall attain the age of twenty-one years. No one can judge in advance how long it will require to reform any particular juvenile delinquent, and hence the impropriety of a sentence for a definite period. If a boy is thus sentenced he must be

discharged at the end of the term for which he was sentenced, although his reformation may have but fairly commenced. Every boy who is thus discharged before his reformation is completed is almost sure to relapse into his former vicious courses, and therefore is not benefited himself, but reflects discredit upon the institution and tends to impair the public confidence in its efficiency. Besides this, any juvenile offender may under other sections of the act be committed to the guardianship of the institution until he attains the age of twenty-one years, unless sooner discharged as reformed, without having a record of conviction of crime made against him, and there is therefore no necessity for the section above mentioned. The law governing the admission of boys to the institution should also be so changed as not to allow those under the age of nine or over the age of sixteen years to be committed to its guardianship. The institution is not a prison, and is not therefore a proper place for the punishment of young men convicted of crimes; nor should it be converted into a nursery for quite small children. If even the maximum age shall be reduced from eighteen to sixteen years, as I have suggested, still it may be expected that, by fraudulent representations as to the age of delinquents, boys will be sent to the institution who have passed the proper age; but as it now is, some young men over the age of twenty-one years are, through false representations as to their ages, committed to the House of Refuge to save them from being sent to the Penitentiary. This is highly injurious to the institution and detrimental to the best interests of its younger inmates. We ought to have a prison intermediate between the House of Refuge and the Penitentiary, but the House of Refuge can not perform the functions of such a prison.

If the House of Refuge should be enlarged so as double its capacity it would still be unable to receive all the boys who require the reforming influence of such an establishment. A few of the larger cities of the State would furnish boys enough to fill such an institution. In view of this, the larger cities of the State should not only be empowered, but encouraged to establish similar institutions. The Board of Commissioners of the counties in which such cities are located might, with propriety, be authorized to join with the city authorities in their establishment, and the State could, in my judgment, well afford to contribute a part of the funds necessary to defray the current expenses of such institutions after they shall have been established by the local authorities.

SOLDIERS' HOME.

Since the termination of last session of the General Assembly, the old wooden buildings belonging to the Soldiers' Home near Knightstown, were destroyed by fire. They were at the time of the fire occupied as quarters for disabled soldiers then connected with the institution, the new brick building being then and still occupied by the soldiers' orphans who have been admitted to the Home. In consequence of the fire all the soldiers who were willing to go to the National Soldiers' Home, near Dayton, Ohio, were sent to that institution, and those who were unwilling to go there were, in accordance with their own preferences, discharged. Since then the Home has been exclusively for the care of the orphan children of soldiers. It is inexpedient and unnecessary to rebuild the soldiers' department of the Home, and the act creating the institution should therefore be so far modified as to sanction the change in the character of the institution caused by the destruction of the soldiers' quarters. It would be good policy as well as sound economy in my opinon to provide for increasing the quantity of land connected with the institution and for creating the work shops which may be necessary to utilize the labor of the children and impart to them at the same time industrious habits.

Up to this time the number of soldiers' orphans applying for and entitled to admission, has equalled or exceeded the capacity of the institution, but the probabilities are that the time will soon come when the number of soldiers' orphans entitled to admission will be so reduced as to permit the admission of other indigent children. In anticipation of this, I think provision should be made by law for the admission of children from the county asylums of the several counties wherever such can be admitted without excluding any of the class of orphan children now entitled to its benefits. When the property shall no longer be required as a home for soldiers' orphans, it will be well adapted to and much needed for, an Industrial Reform School, somewhat different in character from the House of Refuge. Such a school, in which the waifs of society should be collected and cared for before they become delinquents, would be a blessing to the State and cut off one of the sources through which the criminal classes of our people are increased.

THE STATE NORMAL SCHOOL.

The State Normal School has been embarrassed for the want of

the means necessary to carry on its operations. A loan of $4,000 became an imperative necessity, and was made. I believe there is some other floating debt which ought to be liquidated without delay. I trust the necessary appropriation will be promptly made.

THE INSTITUTION FOR THE EDUCATION OF THE BLIND.

For four years or more, there has been a pressing necessity for the enlargement of the Institution for the Education of the Blind, the increase of this class of our population being such that the present building has become too small to accommodate all who are entitled to the benefits of the institution. The estimates made prior to the meeting of the last Legislature, stated $65,000 as the amount necessary to make this enlargement. I believe these estimates were correct, and earnestly recommend that such an appropriation be made without delay.

THE INDIANA REFORMATORY INSTITUTE FOR WOMEN AND GIRLS.

The building for this much needed institution has remained in an unfinished condition for the last two years, no appropriation having been made to complete it. It is highly important that the building should be speedily completed and furnished, to the end that the female prisoners now in the State Prison at Jeffersonville should be removed thereto, pursuant to the requirements of the act for the establishment of the institution. It is also highly important, that the reformatory department of the institution should be open for the reception of girls at the earliest practicable period.

There is an existing indebtedness of about $20,000, contracted in the erection of the building, and I trust that an appropriation will be made to pay this, and also to complete and furnish the building, fence the grounds, and put the institution in operation.

STATE PRISON SOUTH.

I herewith respectfully submit the annual report of the Directors and Warden of the State Prison South. I hope that the indebtedness of the prison mentioned in this report, which was necessarily and unavoidably incurred, may be speedily provided for. The contracts for the labor of the convicts have four years to run from the 1st day of January next, and in my opinion there should be no extension of these contracts, but steps should be taken looking to the abandonment

of this prison by the time the present contracts expire. The prison buildings are old, dilapidated, and not well adapted to the purposes for which they are used. The cells are too small, and to continue the prison will necessitate expenditures for repairs to such an extent as to render it better economy to provide a new prison of a milder grade than the one now under consideration. In my opinion, one prison of this grade is sufficient for the State, and the one at Michigan City, being a new and a good one, should be retained and the one at Jeffersonville abandoned. There should be graded prisons and a classification of prisoners. To effect this there should be substituted for the Prison South, a prison of milder type, intermediate between the House of Refuge and the State Prison at Michigan City. To this milder prison, young men too old for the House of Refuge, and older persons who have been overtaken by a first offense under mitigating circumstances, should be sent, so that such offenders may not be associated or put on an equality with professional criminals. If such a prison should be established, provision should be made for the transfer of incorrigible prisoners, who may evince a determination not to reform, to the State Prison at Michigan City, and power should also be lodged somewhere, to transfer prisoners who give satisfactory evidence of reformation, from the penitentiary to the intermediate prison. Such last mentioned transfers might be probationary in their character, and revocable if the prisoner ceased to deserve the favor shown him. Prisoners even of the worst classes are still human beings, governed by the same motives which influence others, and with the proper care and proper appliances, I am satisfied that a majority of them, instead of being made worse by their imprisonment, can be restored to their lost manhood.

The Constitution declares that "the penal code shall be founded on the principles of reformation, and not of vindictive justice." In the spirit of this humane provision, I plead for graded prisons and for a classification of prisoners. Prisons are the only schools in which the criminal classes can be reformed and taught, and there is just the same necessity for gradation and classification as there is in other schools. There ought to be also a supervisory board, having control of all prison officers, with power of suspension or removal for cause during the vacations of the General Assembly. Under the the existing arrangement the grossest abuses may exist when the General Assembly is not in session, but there is no power to interfere.

I believe that between now and the expiration of the contracts

for the labor of the convicts in the Southern Prison the change in our prison system, which I have so briefly and imperfectly sketched, may be accomplished in accordance with the soundest economy, and in consonance with the latest and best achievements in this particular field of social science.

SOLDIERS' MONUMENT.

I herewith respectfully submit the memorial of the Board of Managers of the Indiana Monumental Association, soliciting State aid to the erection of a monument to the memory of Indiana soldiers who periled their lives in the service of their country. The memorial embodies resolutions in favor of the same object of a large meeting of citizens held at Indianapolis in May last, upon the occasion of the decoration of the soldiers' graves at Crown Hill near that city. I cordially commend the memorial, with the subject to which it relates, to your favorable consideration.

I trust that the session upon which you have just entered will be characterized by perfect harmony and will be fruitful of good legislation, and assure you of my desire to co-operate with you in furthering such results.

CONRAD BAKER.

COMMUNICATION

FROM

GOVERNOR CONRAD BAKER

IN RELATION TO THE

INTERNAL IMPROVEMENT BONDS.

Gentlemen of the House of Representatives:

I have the honor to acknowledge the receipt of a copy of a preamble and three separate resolutions, passed by the House on the 19th ultimo, in relation to the Indiana bonds or stocks held by John W. Garrett, Esq., and other kindred matters.

I was not in possession of all the information requested by the resolutions, and an effort to procure it has caused the delay in my response.

The first of the three resolutions above mentioned, requests me to inform the House:

First. Under what authority of the State of Indiana the bonds held by Garrett were issued?

Second. The date of the act under which they were issued?

Third. The amount of principal, interest and costs the State Treasury will have to furnish if the bonds are paid according to my recommendation?

In response to the first and second of these inquiries, I beg leave

to say that according to the proofs taken in the case now pending in the Cass Circuit Court, wherein said Garrett is plaintiff, and the Trustees of the Wabash and Erie Canal, and others, are defendants, the said Garaett holds thirty one dollar bonds of $1,000 each, and ten sterling bonds for £225 sterling each. They were issued by and under the authority of the General Assembly of this State contained in the act hereinafter referred to. The thirty one dollar bonds were issued under the act approved January 27, 1836, entitled "An Act to provide for a General System of Internal Improvements." (See Revised Statutes of 1836, page 341, section 8.

Nine of the ten sterling bonds held by Garrett were issued under the same act. The one other sterling bond held by said Garrett was issued under the act of February 12, 1839, and I apprehend is not a lien upon the canal, or any of the public works formerly owned by the State.

As to the amount of principal and interest that the treasury would be required to furnish to pay these forty-one bonds, if the General Assembly shall direct their payment, I am not prepared to give exact information, as it involves questions of interest and exchange, requiring long and tedious calculations, which I have not time to make. These questions have been referred to a Special Master, with directions to report thereon to the Court by the 27th instant. The amount, however, due to Garrett will not vary largely from $160,000, including principal, interest and exchange. As to the costs, I have no means of forming even an approximate estimate.

For the information of the House, I herewith respectfully transmit a copy of one of the dollar bonds, and also one of the Sterling bonds, held by Garrett, with a copy of one of the unpaid coupons thereto attached, and marked respectively "A" and "B."

No interest has been paid on any of these bonds since January 1, 1841. The above estimate of $160,000 only includes the bonds held by Garrett, and does not include those held by others who may become parties to the suit.

The second of said resolutions to which this is a response, requests me to inform the House under what authority of the State of Indiana the bonds held by William H. Beers and others whose payment was sought to be enforced by suit in the Circuit Court of the United States some ten years since, were issued, the date of the act authorizing their issue, the amount of the said bonds with interest and costs, and what was the final issue of said legal proceeding subsequent to the decision of the United States Supreme Court, reported in 2 Black's

Supreme Court Reports, and whether said bonds are paid, and if so who paid them, and what amount the Trustee's of the Wabash and Erie Canal were compelled to disburse out of the trust funds in consequence of said litigation.

In response to this resolution, I beg leave to say that, the case of Beers vs. The Trustees of the Wabash and Erie Canal, reported in 2 Black, page 448, and referred to in the resolution, itself shows that Beers held two bonds of $1,000 each, which were the foundation of this suit, and that they were issued under the act of the General Assembly of Indiana of the 7th of January, 1832. Said bonds, as already stated, were for the sum of $1,000 each, but I have no means of information, except the communication of Hon. Thomas Dowling, hereinafter referred to, as to the amount of interest that accrued or was paid on said bonds, or as to the costs that accrued or were paid in the suit. I am informed that the Circuit Court of the United States, after the case was sent back from the Supreme Court, made a decree in conformity with the opinion of the Supreme Court enforcing the payment of the bonds, and that they were paid, together with the interest and costs by the Trustees of the Wabash and Erie Canal. All the information I have in these matters I derive from a letter written, at my request, to me by Hon. Thomas Dowling, resident Trustee of the Wabash and Erie Canal, a copy of which I herewith respectfully submit, marked "C," and I have no doubt of the correctness of the statements therein made.

The third resolution requests me to give my opinion "whether, if the State, out of abundant precaution, with accustomed generosity, *ex gratia*, makes provision for the payment of the Garrett bonds, as recommended," etc., "the State will ever in the future be threatened or harrassed on account of unsurrendered internal improvement bonds by any other person or persons, or by any corporation, trust or other source whatever, and whether such payment by the State can be construed into a breach of plighted faith on the part of the State by reason of the latter proviso of section 8 of an act approved January 27, 1847, being an act supplemental to an act commonly called the Butler Bill."

In response to the first part of this resolution, I beg leave to say that I do not consider the redemption of the bonds held by Mr. Garrett, or the redemption of other similar bonds held by others, still outstanding, to be at all a matter of generosity or mere favor to the bondholders. If I did so consider it, I should never recommend their payment. In my judgment, it is a matter of duty and not a

matter of favor on the part of the State to pay these bonds, because they were issued by her authority and she pledged her faith for their payment, and because she is abundantly able to pay them. I think it is perfectly clear, from all the evidence that can be attained, that the whole number of old bonds still outstanding, issued prior to the year 1841, does not exceed one hundred and ninety-one (191), a majority of these being dollar bonds of $1,000 each, and the rest being sterling bonds of two hundred and twenty-five pounds sterling each, one of the latter being equivalent in value to one of the former.

I suppose that the payment of the forty-one bonds held by Mr. Garrett will imply the duty on the part of the State of paying the remaining one hundred and fifty by whomsoever held, and I have on several occasions recommended, and now recommend, the payment of all of them. If this shall be done, I can not imagine how, or by whom the State could be threatened or harrassed on account of unsurrendered Internal Improvement bonds from any quarter whatever, for the simple reason that there will then be no other old bonds of the State upon which to predicate threats or annoyance.

I might say that the evidence taken in the case pending in Cass county has accounted for one hundred and fifty-four of the one hundred and ninety-one old bonds still supposed to be outstanding, by showing where and by whom they are held, leaving thirty-seven thereof still unaccounted for. I believe that some of these thirty-seven bonds will never be presented or accounted for, as it would be wonderful if some of them, after the lapse of so long a time, had not been lost or destroyed, especially when it is considered that no interest has been paid on them since 1841, and in consequence thereof the holders would be likely to esteem them of little value.

As to the question whether the payment by the State of these old bonds can be construed into a breach of plighted faith on her part, by reason of the latter proviso of Section 8, of the Act approved January 27, 1847, I beg leave to submit it as my opinion that no such conclusion can be justly drawn from the payment if it shall be made.

The proviso to which the resolution refers reads as follows, viz.:

"*Provided further*, That the State will make no provision whatever hereafter to pay either principal or interest on any Internal Improvement bond or bonds until the holder or holders thereof shall have first surrendered said bonds to the Agent of State, and shall

have received in lieu thereof certificates of stock as provided in the first section of this Act."

In my judgment, this provision is void in morals and in law, because it stipulates that the State will not perform its obligations to its creditors until they shall acede to material conditions not contained in the orignal contract. Such a stipulation between a natural person who was indebted, with one or more of his creditors, that he would never pay the rest of his creditors unless they acceded to new conditions not contained in the original contracts, would be null and void, and the Courts, instead of compelling the debtor to perform such stipulation would compel him to break it by paying his debts to the extent of his ability. Sovereignties who can not be sued ought to do voluntarily the same things which individuals, under like circumstances, would be compelled by the Courts to do.

Besides, these bonds were contracts of the State, protected by that clause of the Constitution of the United States which prohibits States from passing laws impairing the obligation of contracts.

The Supreme Court, in the case in 2 Black, before alluded to, expressly hold that the Legislature of Indiana could not, by the Act of 1847, impair the obligation of her contracts previously made.

It is worthy of note that the holders of the Canal Stocks charged exclusively upon the Wabash and Erie Canal, have, within the last two weeks, presented to both Houses of this General Assembly their printed protest against the payment of these old bonds. Now, if their payment would, as is assumed by some, create an obligation on the part of the State to pay the canal debt, is it possible that the holders of this debt would protest against the doing of the very thing which would secure to them the payment of their debt, or at least create on the part of the State an obligation to pay it? The very fact that they thus protest is conclusive to my mind that the Garrett suit was commenced and prosecuted in the interests of the holders of the Canal Stocks, and that they desired that Garrett's lien should be enforced by a decree of sale or sequestration, and the trust thereby destroyed so that they might make this destruction the basis of a claim against the State for the payment of the Canal debt.

Respectfully submitted,

CONRAD BAKER,

Governor.

EXHIBIT A.

UNITED STATES OF AMERICA,

STATE OF INDIANA.

$1,000. No. 216.

INTERNAL IMPROVEMENT LOAN.

Five Per Cent. Stock.

Under the act of the General Assembly of the State of Indiana, entitled "An Act to provide for a General System of Internal Improvement in Indiana," approved January 27, 1836, and an act providing for the further construction of the Madison and Lafayette Railroad, approved February 6, 1839:

Know all men by these presents: That there is due from the State of Indiana to the Morris Canal and Banking Company, or bearer, the sum of One Thousand Dollars, bearing an interest of five per centum per annum from the date hereof, the first of which interest is payable the first day of January next, and thereafter semi-annually, on the first days of July and January, at the banking house of the Morris Canal and Banking Company, at Jersey City, or at their agency office in the city of New York, on presentation and delivery of the dividend warrants severally subjoined, until payment of the principal sum, which principal sum being stock created in pursuance of the act of the General Assembly aforesaid, is payable in twenty-five years from the date hereof, and for the payment of the interest and the redemption of the principal aforesaid, at either of the places aforesaid, the faith of the State of Indiana is irrevocably pledged.

Witness our hands at Indianapolis, this first day of July, 1839.

MILTON STAPP,
LUCIUS H. SCOTT,
Commissioners.

Internal Improvement Loan under the Act of January 27, 1836, Morris Canal and Banking Company, at Jersey City, or in the City of New York, pay to the bearer Twenty-five Dollars, being half a year's interest on bond No. 216, due July 1, 1841.

M. STAPP.

EXHIBIT B.

UNITED STATES OF AMERICA,
STATE OF INDIANA.

£225 St'g. No. 2538.

INTERNAL IMPROVEMENT LOAN.

Five per Cent. Stock.

Under the act of the General Assembly of the State of Indiana, entitled "An act to provide for a general system of internal improvements in Indiana," approved January 27, 1836.

Know all men by these presents, that there is due from the State of Indiana to ——— or bearer, the sum of Two Hundred and Twenty-five Pounds Sterling, bearing an interest of five per centum per annum from the first day of July last, the first of which interest is payable the first day of January next, and thereafter, semi-annually, on the first days of July and January, at the banking house of N. M. Rothschild & Sons, in London, on presentation of the dividend warrants severally subjoined, until payment of the principal sum, being stock created in pursuance of the act of the General Assembly aforesaid; is payable in twenty-five years from the first of July last, and for the payment of the Interest and the redemption of the principal aforesaid, at the banking house of N. M. Rothschild & Sons, in London, the faith of the State of Indiana is irrevocably pledged.

Witness our hands at Indianapolis, this 1st day of May, 1840.

MILTON STAPP,
Commissioner.

N. B. PALMER,
Treasurer of State.

Indiana Internal Improvement Loan, under the act of January 27, 1836.

N. M. Rothschild & Sons, London, pay to the bearer £5 12s. 6d. sterling, being a half-year's interest on bond No. 2538, due July 1, 1841.

M. STAPP,
Commissioner.

EXHIBIT C.

TERRE HAUTE, Nov. 25, 1872.

MY DEAR GOVERNOR:—At your request, I have examined our record in regard to the redemption, by order of Court, of four *original* Wabash and Erie Canal Bonds, of the issue of August, 1832. These bonds were sold to parties in New York by William C. Linton, Nicholas McCarty and Jeremiah Sullivan, Commissioners, the General Assembly of Indiana, in January, 1832, having authorized a loan of $200,000, for the purpose of *commencing* the construction of the Canal aforesaid. This was the first loan made by the State for Internal Improvement purposes. Bonds 69 and 70 were held by Joseph D. Beers, and 53 and 54 by Israel Cohen. These bonds were redeemed in New York, at the office of Charles Butler, one of the Trustees of the Canal, and report made to the office at Terre Haute of such payment. The amount paid to the estate of J. D. Beers, for Bonds 69 and 70, principal and interest, was $7,225.46, and to Israel Cohen $5,026.55. But this was only a partial settlement as to Cohen's bonds. That gentleman subsequently procured an order of the Court ordering the payment of *interest* on the *coupons* from the date of their maturity. This additional sum was added to the redemptlon of bonds Nos. 53 and 54, equal to the sum paid to the estate of Beers. As the bonds were of the same date, with like number of coupons attached, the redemption of these four bonds cost the Board of Trustees the gross sum of $14,450.92.

The Board also expended considerable sums of money in defending the validity of the Acts of 1846–'47. They not only were compelled to pay attorneys of their own selection, but the Courts, in their wisdom, decreed that adverse counsel should also be paid out of the Trust funds. They were so paid in obedience to such decrees.

In the cases of Beers and Cohen, John Ferguson and others, and J. M. Garrett, the Trustees have endeavored to defend the legislation of the State from adverse interference, thus incurring expenses which you justly recommended to the attention of the General Assembly. This account will be made up whenever called for by the Governor.

Very truly, your obedient servant,

THOS. DOWLING,
Res. Trustee of W. and E. Canal.

HIS EXCELLENCY, CONRAD BAKER,
Indianapolis, Ind.

MEMORIAL.

PURDUE UNIVERSITY.

To the General Assembly of the State of Indiana:

The Indiana Agricultural College, now called Purdue University, realized, in currency, two hundred and twelve thousand two hundred and thirty-eight dollars and fifty cents ($212,238.50) from the sales of the land-scrip donated by the United States. With this money, government bonds were purchased; and a part of the interest accruing on said bonds has been invested in a similar manner. Hence at at the present time Purdue University has two hundred and fifty thousand dollars ($250,000) of bonds commonly called 5–20's, and twenty thousand ($20,000) of currency 6's; all of which are registered. For these bonds there has been paid, in currency, two hundred and ninety-two thousand one hundred and seventy-seven dollars and eighty-seven cents ($292,177.87.) There are also in the Treasury of the University, seven thousand one hundred and sixty-seven dollars and fifty-two cents ($7,167.52) in currency—being a balance of the interest received.

The present currency value of this fund derived from the sale of land-script, is three hundred and fourteen thousand and sixty-seven dollars and fifty-two cents ($314,067.52) and the annual interest thereon is fifteen thousand dollars ($15,000) in gold, and twelve hundred dollars ($1,200) in currency. In addition to this, it is confidently expected that Congress, at the approaching session, will largely increase the former grant to the States and thus enable the "Agricultural Colleges" to do the work they were intended to perform without any assistance from the States for *current expenses.* (A Bill is now pending in the U. S. Senate which donates one

million acres of the public lands to each Agricultural College.)

By act of Congress and in accordance with the legislation of Indiana: "No portion of said fund" (heretofore received from the United States land grant) "nor any interest thereon, shall be applied directly or indirectly, under any pretence whatever, to the purchase, erection, preservation or repair of any building or buildings."

Besides the funds above specified, Mr. John Purdue obligated himself to pay one hundred and fifty thousand dollars (150,000) for the benefit of the University, in yearly installments of fifteen thousand dollars ($15,000) and Tippecanoe county agreed to donate fifty thousand dollars ($50,000) in annual installments of ten thousand dollars ($10,000.) Also, certain citizens in the vicinity of Lafayette gave one hundred (100) acres of very eligible land on which to locate the University.

As a tract of one hundred acres was considered too small to meet the wants of an Agricultural College, eighty-four (84) acres of land lying in the best possible position to the land donated, were bought at a cost of twenty-four thousand dollars ($24,000.) The sum of thirty-two thousand dollars ($32,000) has been appropriated and in part expended for the erection of a dormitory for students. And for laying the foundation for the main college building, and for a dwelling house and barn, an additional sum of about ten thousand dollars ($10,000) has been expended.

Mr. Purdue has so far redeemed his pledge, that another installment will not be due from him until May, 1874.

To meet the pledge of Tippecanoe county, the Board of Commissioners issued orders on the County Treasurer as the installments became due, to wit: for ten thousand dollars ($10,000) May, 1870; for ten thousand dollars ($10,000) May, 1871; and for ten thousand dollars ($10,000) May, 1872. The first of these orders was paid last summer; the last two were presented for payment as soon as drawn, but not paid for want of funds. They with accrued interest will probably be paid early in the year 1873.

At their session in August, 1872, the Board of Trustees of Purdue University ordered the erection of a dormitory with thirty-two (32) suits of rooms—three rooms to a suit; which was at once placed under contract, to be completed for thirty-two thousand dollars ($32,000.) This building is now up to the third story. The Trustees also ordered that arrangements be made to build, with as little delay as possible, a Chemical Laboratory after the plan of the new Laboratory of Brown University, at a probable cost of fifteen thou-

sand dollars ($15,000;) and a Boarding House, the plans of which were ordered, and are in process of completion, at an estimated cost of fifteen thousand dollars ($15,000.)

And it is designed to proceed in erecting the main College edifice, the basement of which has been built in part. This main building will require for its completion, about seventy-five thousand dollars ($75,000.) All these structures are imperatively necessary to the successful opening of the Institution for the reception of students; and if the requisite means can be placed at the command of the Board of Trustees, these buildings can and will be completed by the autumn of 1873.

In addition to buildings, there will be needed for the purchase of Chemical, Philisophical and Mathematical Apparatus, ten thousand dollars ($10,000;) for a Museum, ten thousand dollars ($10,000;) for a Conservatory, five thousand dollars ($5,000;) for a Library, ten thousand dollars ($10,000;) for fencing and ornamenting grounds of University, five thousand dollars ($5,000;) for boring an Artesian Well, five thousand dollars ($5,000;) for purchase of Farm Implements and Machinery, five thousand dollars ($5,000;) for purchasing stock of Horses, Cattle, Sheep and Swine, five thousand dollars ($5,000;) and for erecting a Barn and Shedding for stock, farm machinery and crops, ten thousand dollars ($10,000.)

Thus, in the opinion of the Trustees, it will require at least one hundred and sixty-seven thousand dollars ($167,000) between this and mid-summer of next year, to put the buildings and other appliances of Purdue University in condition to open for the reception and instruction of students, on a basis which will compare favorably with kindred Institutions in other States. And at most, the Trustees can have within that time, from present resources, only the $40,000 donated and falling due from Tippecanoe county.

Under these circumstances, no alternative is left but to apply to the Legislature of the State of Indiana for an appropriation, at their present session of one hundred thousand dollars ($100,000.) And we, the Trustees of Purdue University, hereby pray that such appropriation be made.

This may seem a large sum to ask, but when all the circumstances are considered, that impression will probably be entirely removed. There are but three State Educational Institutions, and those who feel a State pride, such as we believe animates your Honorable Body, and who reflect that those Institutions are thrown open to the sons and daughters of every citizen of Indiana; that even the courses of

Law and Medicine, and preparation for teaching are completed without any charge for tuition; we can then see readily why the Legislature—emulating with commendable rivalry our sister States of the West—has already made liberal appropriations for building and conducting the State Normal School, and will probably feel justified in granting the further sums asked for that Institution. From the same stand point, we submit, it can well be seen why this General Assembly should also grant to the State University the sum needed to erect a suitable building to contain the cabinet recently purchased by the Trustees, and an annual sum sufficient to make the income adequate to the position and wants of that Institution.

If these liberal appropriations already made and those we hope soon will be made to the Normal School and to the State University are just, and such as a wise and generous policy dictates—which we fully conceive to be the case—then we ask that the same wise and generous legislation be extended to place Purdue University on a basis which would insure success and be but a just response to the liberality heretofore displayed by the General Government, and be an additional incentive to new donations from that source—while a vacillating or parsimonious policy would assuredly have the opposite effect.

Your memorialists further believe there is no method better than liberal appropriations for education, by which life and property could be made more secure in our State, immigration encouraged, virtue strengthened, heavy expenditures for punishment or restraint of crime avoided; nor any policy other than that of fostering education in all its departments, whereby so much prosperity could be realized; so much development of mines and manufactures be effected; so much increase in our agricultural products be secured without deterioration of our rich soil; in short, by which Indiana could be made so enlightened and so worthy of her citizens.

In conclusion, we respectfully beg leave to remind you that the especial object and purpose of the Purdue University is to foster and advance the Agricultural and Mechanical interests of the State.

JOHN R. COFFROTH,
JOHN A. STEIN,
M. L. PIERCE,
I. D. G. NELSON,
JOHN SUTHERLAND,
L. A. BURKE,
Trustees.