# The Indiana Legislature.
*Reported for the Indiana State Sentinel.*

## SENATE.
THURSDAY, Dec. 4, 1845.

*Petitions, Memorials, &c., presented.*

By Mr. Pomeroy, from citizens of Marshall county, praying a repeal of all laws creating legal distinctions between white and colored persons. A motion to refer to the Judiciary committee failed. On motion of Mr. Buell it was laid on the table.

By Mr. Reyburn, from citizens of Miami county, to extend the Madison and Indianapolis Rail Road north to Peru, which was referred to a select committee.

By Mr. Rockhill, from sundry citizens of Allen county, in relation to certain Indian chiefs, empowering them to sell real estate, and legalizing certain acts therein named, which was referred to a select committee.

Mr. Ellis presented the proceedings of citizens of the Wabash valley in a convention at Terre Haute, in relation to the Ohio and Wabash canal; referred without reading to the committee on canals and internal improvements.

By Mr. Holloway, from members of the Independent Odd Fellows, praying a charter for a Grand Lodge; referred to a select committee.

By Mr. Davis, the petition of Ann B. Evans for a divorce; referred without reading to the Judiciary committee; also, from Elias Thomason in relation to titles, &c.; referred to the same committee.

By Mr. Jones, a memorial from Horace B. Smith, of Fountain county, for relief, &c.; referred to the committee on claims.

*Resolutions.*

By Mr. Coffin, instructing the committee to enquire into the expediency of re-enacting the *ne-exeat* laws heretofore in force. Adopted.

By Mr. Hardin, instructing the committee on the Judiciary to enquire into the expediency of increasing the pay of grand and petit jurors to the sum of one dollar per day. Adopted.

By Mr. Pomroy, instructing the committee on the Judiciary to enquire into the expediency of reporting a bill establishing and regulating the fees of county and township officers. Adopted.

By Mr. Holloway, that the committee on Education enquire into the expediency of abolishing the office of school fund commissioner of this State, and transferring the duties of said officers to the treasurers of the respective counties. Adopted.

By Mr. Verbrike, that the Judiciary committee inquire into the expediency of so changing the law regulating Probate courts as to form regular Probate circuits, and elect well qualified Judges to preside over them, with salaries equal to the importance of the office. Adopted.

The President submitted reports from the several Branch Banks which were referred to the committee on the State Bank.

Mr. Rockhill introduced a bill authorizing the holding of special terms of the circuit court in the 12th judicial circuit, in certain cases; passed to a second reading.

Mr. Rockhill introduced a bill authorizing the personal property of Lyman G. Ballemy, late of Allen county, to be sold at private sale; ordered to a second reading.

A message was received from the House, inviting the Senate to repair *instanter* to the Hall of the House to proceed to the election of President Judges in the 4th, 10th, 11th Judicial circuits.

The President named Messrs. Goodenow and Berry tellers on the part of the Senate.

The Senate accordingly repaired to the Hall of the House, where the convention was called to order by the President of the Senate.

Mr. Hall nominated John Pitcher for the 4th circuit; Mr. Edmonson nominated James Lockhart. Upon the first ballot,

Mr. Lockhart received 85 votes.
Mr. Pitcher " 63 "

Mr. Lockhart having received a majority of all the votes given was declared duly elected. The convention then proceeded to ballot for President Judge in the tenth judicial district. Mr. Hamer nominated the Hon. David McDonald. The President announced the following as the result of the first ballot:

David McDonald received 125 votes.
Mr. Hughes " 2 "
Blank 25

Mr. McDonald was thereupon declared duly elected. The members of the convention were then directed to prepare their ballots for the election of President Judge for the 11th judicial district

Mr. Hinchman nominated Mr. David Kilgore.

Mr. Mickle nominated Mr. Jeremiah Smith.

The first ballot resulted as follows:

Jer. Smith received 75 votes.
D. Kilgore " 71 "
Davis " 1 "

Mr. Smith having received a majority of all the votes given was declared duly elected.

The convention now adjourned. The Senators having returned to their chamber, on motion, adjourned until 2 o'clock, P. M.

AFTERNOON SESSION.

The President laid before the Senate a communication from Joseph R. Pratt, Superintendent of the State, in relation to certain charges preferred against him in his official capacity, and soliciting an impartial investigation of his conduct; referred to a select committee, consisting of Messrs. Morgan of D., Logan and Buell.

Mr. Rockhill presented a petition from citizens of Adams, for the relief of the agent of the surplus revenue in Adams county; referred to a select committee, consisting of Messrs. Rockhill, Cuppy and Herriman.

Mr. Allison introduced a resolution requiring the committee on canals and internal improvements to enquire into the expediency of reporting a law for the disposal of the lands in the Vincennes district, donated by the General Government for the completion of the Wabash and Erie canal to Evansville. Adopted.

The President submitted a communication from the Governor appointing *J. B. Powers*, Esq., his Private Secretary.

The following message was received from the H. of R. by Mr. Williams, their Assistant Clerk.

Mr. President: I am directed by the House to inform the Senate that the House of Representatives have adopted the following resolution:

*Resolved*, That the House will, (the Senate concurring therein,) go into the election of a United States Senator on Saturday next, at 10 o'clock.

On motion of Mr. Buell, the resolution was reciprocated.

Mr. Buell offered a resolution directing the Judiciary committee to enquire into the expediency of reporting a law for the relief of Reuben Fletcher, an alien of Ripley county, in relation to legalizing certain acts in the conveyance of real estate; which was adopted.

Mr. Morgan of D. offered a resolution instructing the committee on Federal Relations to enquire into the expediency of memorializing Congress for a grant of land for the benefit of the surviving officers and soldiers of the late war. Adopted.

Mr. Logan offered a resolution instructing the committee on the Judiciary to enquire into the expediency of amending the estray laws in certain particulars. Adopted.

Mr. Holloway introduced a resolution instructing the committee on the Judiciary to enquire into the expediency of memorializing Congress for a grant of land for the completion of the Cumberland Road through Indiana. Amended by Mr. Lane so as to read a grant of land or money. Adopted.

Mr. Zenor offered a resolution instructing the committee on the Judiciary to enquire into the expediency of so amending the law regulating common schools as to authorize the trustees to subdivide any school district when it may be necessary for the convenience of the citizens. Adopted.

On motion of Mr. Herriman, the Senate adjourned.

## HOUSE OF REPRESENTATIVES.
THURSDAY, Dec. 4.

Messrs. Stapp, Mooney, Huff, Logan, Henry, Watt, Carman, Lowe, Osborn of Laporte, Jackson, Smith and Powers, were appointed a select committee, on the resolution offered on yesterday by Mr. Stapp in relation to a general system of doing county busines.

Messrs. Clymer, Taber, Hall of Gibson, Pennington, Mickle, Burns, Stewart, Webb, Nofsinger, Ford, Edwards and Hall of Warren, were appointed a committee for the purpose of making an apportionment of Senators and Representatives for the next five years, on the resolution offered on yesterday by Mr. Clymer.

Mr. Shanks moved to reconsider the vote, taken on yesterday, on the resolution providing for going into the election of United States Senator on Monday next.

Mr. Shanks remarked, that he made the motion with a view, if the vote was reconsidered, that the resolution might be amended, so as to go into the election on Saturday next, and that the elections might all be gone through with, during the present week.

At the suggestion of Mr. Stapp, who said the motion was not in order, until the call for resolutions, Mr. Shanks withdrew his motion, giving notice that, at a proper time, he would make the motion.

Mr. Clymer presented a petition praying for an amendment to the valuation laws, so that real estate shall sell for half its appraised value, and personal property for what it will bring, and that executions from justices shall only run for sixty days; which was referred to the committee on the Judiciary.

By Mr. Pennington, for an amendment to the school law; referred.

Also, petitions by Messrs. Shanks, Davis of Scott, and Arnold, (for a divorce;) which were referred.

Mr. Shanks now renewed his motion, to reconsider the vote on the resolution, providing for going into the election of United States Senator on Monday next; which motion prevailed, ayes 53, noes 45; when

Mr. Shanks moved to amend the resolution, by striking out "Monday" at 2 o'clock P. M. and inserting "Saturday at 10 o'clock, A. M." which was agreed to, and the resolution as amended was adopted.

Mr. Stapp offered a resolution, that Professor Smith have the use of the Hall on evenings when not occupied by the House, or on its special order, to lecture on Phrenology, Human Magnetism and Geology.

Messrs. Hall of Gibson, Clymer, and others thought the resolution too broad in its phraseology, and that Professor Smith might, by a series of appointments occupy the Hall during the whole session.

Mr. Moore moved to lay the resolution on the table; which motion prevailed.

Mr. Cookerly offered a resolution as to the propriety of giving the right of selection of jurors to the trustees of the different townships; which was adopted.

Mr. Osborn of Laporte offered a resolution as to the expediency of reporting a bill, providing that after the return of an execution "no property," that it shall be lawful for the execution-creditor or creditors to cause a summons of garnishee to be issued out of the proper court, against the debtor or debtors of such execution-debtor, and also a summons against such execution-debtor; which was adopted.

Mr. Moore offered a resolution as to the necessity of any further action, in relation to clerks of the Circuit Courts doing the business of county auditors; that is, whether, in executing deeds for school lands, and lands sold for taxes, they should not be executed in the name of the clerk of the Circuit Court, and not as county auditor, and report by bill or otherwise; which was adopted.

Mr. Vandeveer offered a resolution, that the President of the State Bank report to this House, what branches of the State Bank have realized a dividend six per cent., and if any have not realized six per cent., by what means the interest on the State loan has been paid; which was adopted.

Mr. Hall presented a bill to regulate actions brought by corporations, and for other purposes; which was twice read and referred to the judiciary committee.

By Mr. Parker, to change the time of holding the Probate Courts in Allen county; twice read and referred.

By Mr. Baker, supplemental to the 12th article of the 40th chapter of the Revised Statutes of 1843; referred. Also, a bill regulating the tenure of office of county treasurers, hereafter to be elected; twice read and referred.

The Senate now came into the Hall and proceeded to the election of Judges, a report of which is found in the Senate's proceedings.

After the elections, on motion,

The House adjourned.

AFTERNOON SESSION.

The bill to legalize the acts of James Batman, a justice of the peace of Lawrence county, was read a second time and referred to the judiciary committee.

A communication from the Governor announced John B. Powers, Esq., is the authorized bearer of messages from the Executive Department.

The Speaker laid before the House a communication from Simon Bottorf, of Jeffersonville, proposing to pay the State eighty thousand dollars in ten annual instalments, for the use of the State prison and the labor of the prisoners for ten consecutive years, from and after the expiration of the contract of the present superintendents; to pay all expenses, and provide the prisoners with weekly religious instruction, and to give bond and security for the performance of his contract.

Mr. Cookerly moved to reconsider the vote on the resolution for taking the city papers; which motion prevailed.

Mr. Lemmonds moved to strike out "four" dollars and insert "six."

Mr. Seawright moved to amend the amendment, reducing the amount to three dollars; when

Mr. Lemmonds withdrew the amendment.

Mr. Carr moved that the resolution be indefinitely postponed, and called for the yeas and nays.

Mr. Vandeveer said, he had heretofore said nothing on this subject. This would be an important session, and the people should be informed of the acts and doings of the Legislature. He had always voted for taking papers, and his constituents had approved of his course. During the present session, an apportionment of representation was to be made, the Canal subject, in connection with the grant of lands made by the general government was to be disposed of, and the people should be fully advised of the measures that might be proposed. Gentlemen opposed this measure on the score of economy. He had known gentlemen who were great economists when a few dollars were concerned; but who, on other occasions, were lavish of thousands.

Mr. Edwards supported the resolution, and differed with his colleague on this question. He had mistaken the views and feelings of his constituents very much, if they were opposed to this small expenditure. Some gentlemen might be afraid of letting their constituents know their acts; but for his own part, he was willing his constituents should be fully informed of his acts as a representative.

Mr. McDonald believed, that if the vote were taken throughout the State, nine out of ten of the people would be in favor of being furnished with the papers at the public expense.

Mr. Carr said, that it was his intention to practise economy here, as well as preach it from the stump. In his legislative career, heretofore, he had not been lacking in sending papers to his constituents, and that too at his own individual expense. He was willing to devote a few days compensation to disseminate information amongst his constituents, and he thought gentlemen should do likewise; but he was opposed to making this expenditure from the State treasury.

The question was then taken on an indefinite postponement, and decided in the affirmative—yeas 58, nays 33.

So the further consideration of the resolution was indefinitely postponed.

Mr. Hazelrigg offered a resolution providing for taking two hundred copies of the Journal, and one hundred copies of the Sentinel, and one hundred copies of the Democrat, as published.

Mr. McDonald moved to reject the resolution.

Mr. Hazelrigg said, that he had done justice to both political parties, by taking an equal number from each side of the question, dividing between the Sentinel and Democrat. No one, certainly, could complain of this.

The question was taken on the rejection of the resolution and decided in the affirmative, ayes 61, noes 36.

So the resolution was rejected.

A message announced that the Senate had reciprocated the resolution, providing for going into the election of United States Senator on Saturday next, at 10 o'clock.

Mr. Clymer presented a memorial from certain publishers complaining of the price allowed for publishing the delinquent lists, being only seventy-five dollars for a county, let the list be long or short; also asking that the Sinking Fund advertisements and estray notices be published in the papers where estrays are taken up, or the lands advertised are situated, or in the nearest papers thereto; which was read and referred to a select committee of Messrs. Dowling, Clymer, Stewart, Slater, and Hall of Gibson.

Petitions were also presented by Messrs. Cornelius, Tomlinson and Cookerly; which were referred.

Mr. Cookerly offered a resolution, as to the expediency of making tuition in the State University gratis to all; which was adopted.

Mr. Cox offered a resolution, of enquiry, as to the propriety of prohibiting deputy clerks from practising in the circuit and probate courts; which was adopted.

On motion, the House adjourned.

## SENATE.
FRIDAY, Dec. 5.

Mr. Holloway presented a petition from the Independent Odd Fellows; referred without reading to the same committee to which a similar one was referred yesterday.

Mr. Cuppy presented a petition from citizens of Elkhart county on the subject of a State road; referred to the committee on Roads.

Mr. Davis from the committee on the Judiciary, reported a bill to divorce Ann B. Evans from her husband; which was read and passed to a second reading.

*Resolutions Introduced.*

Mr. Bowers. That the committee on Education be instructed to enquire into the expediency of amending the law relative to the compensation of county Auditors and school commissioners, in regard to the management of the school funds; adopted.

Mr. Murphey. That the committee on Education enquire into the expediency of amending the common school laws, so as to authorize township trustees to administer oaths, &c.; adopted.

Mr. Hardin. That the committee on Education enquire into the expediency of repealing the present school law, and substituting a less complicated and more practicable system in its stead; adopted.

Mr. Logan. That the committee on Education be instructed to enquire into the expediency of enacting a law authorizing the Treasurer of State to receive from the State Bank that portion of the Bank tax fund to be appropriated to the use of schools; adopted.

Mr. Parks. That the committee on Roads enquire into the expediency of repealing that part of the road law making it the duty of the several county Boards to assess a road tax, except so far as it relates to non-residents; adopted.

Mr. Morgan of D. That the committee on the State Bank enquire into the expediency of changing the law relative to advertising lands mortgaged to the Sinking Fund so that hereafter such advertisement shall be inserted in some newspaper published in the county where such land may lie; adopted.

Mr. Morgan of R. That the committee on the Judiciary enquire into the expediency of repealing sections 76 and 73 of article 4 chapter 7 of the revised Statues of 1843; adopted.

Mr. Berry of M. That the committee on the Judiciary enquire into the expediency of amending the law relative to the assessment of taxable property, providing that such assessments be made by persons appointed by the boards doing county business, where the property is situated, or that such persons may be elected by the qualified voters of each township, and making it the duty of such assessor to meet at the usual place of holding elections; adopted.

*Bills Introduced.*

Mr. Read. To amend the 45th chapter of the 5th article of the Revised Statues of 1843; which was read a first and second times and referred to the committee on the Judiciary.

Mr. Wood. To attach the county of Tipton to the 11th Judicial Circuit; ordered to the second reading.

Mr. Miller. To legalize the election of county Treasurer in the county of Crawford; which passed to a second reading.

Mr. Buell from a select committee introduced a bill reducing the fees of pilots conducting boats over the Falls of the Ohio; which was read the first time and ordered to a second reading.

Mr. Berry of F. introduced a bill in relation to the mode of conducting suits against corporations; ordered to a second reading.

*Bills read the third time and passed.*

The bill reducing the salary of the Auditor of Sullivan county.

The bill for the improvement of roads in certain counties.

The bill to authorize the holding of special terms in the twelfth Judicial circuit.

The bill authorizing the personal property of Lyman G. Bellemy to be sold at private sale.

Mr. Hamrick introduced a resolution requiring that a select committee be appointed to enquire into the expediency of calling a Convention to amend the Constitution so as to require the Legislature to meet but once in two years; adopted.

The bill dissolving the bonds of matrimony between Ann B. Evans and Joseph Evans was read the second time.

Mr. Morgan of D. moved its indefinite postponement.

Mr. Davis said he was not in favor of Legislative action generally in such cases when it can be adjusted in the circuit court, but this is a peculiar case. Mrs. Evans is a respectable lady. She is so situated peculiarly that she is unable to procure the proper *testimony* from the State of New York to entitle her to a divorce before the proper tribunal. The plea is, that Joseph B. Evans her reputed husband was previously married, and his people were residing in New York at the time of his marriage to her. Mr. Davis knows such unquestionably to be the case.

The ayes and noes were called on the motion of its indefinite postponement and failed. The bill was then read the third time and passed.

Mr. Ellis introduced a joint resolution in relation to the improvements of western rivers; which was read the first and second times, and referred to the committee on federal relations.

Mr. Todd introduced a resolution instructing the committee on the judiciary to inquire into the law granting divorces, and if any amendments be deemed necessary, report accordingly; adopted.

Mr. Rockhill, from a select committee, reported two several bills for the relief of Francis Lafontain and others; which were ordered to a second reading.

Mr. Allison introduced a joint resolution legalizing the acts of Henry Strickland, a justice of the peace in Green county.

Mr. Buell introduced a bill in relation to the Lawrenceburgh Railroad Company; passed to a second reading.

On motion of Mr. Akin, the Senate adjourned.

AFTERNOON SESSION.

Mr. Barbour, from the committee on federal relations, reported back the joint resolution on the subject of improving the western rivers, and recommended its passage; the rules were suspended, and the joint resolution was read the second and third time and passed.

Mr. Ellis introduced a joint resolution on the subject of overflowed public lands.

Mr. Lane wished to know the object of such a resolution.

Mr. Ellis replied that there was immense quantities of land belonging to the General Government in the State of Indiana subject to overflow, which not only rendered it worthless to the Government, as they could not expect to realize any thing from it while in this condition, but it is exceeding prejudicial to the people living adjacent. If the right of the State to it was confirmed, it could be reclaimed, and rendered valuable.

Mr. Edmondson moved to refer it to the committee on agriculture; which motion prevailed.

Mr. Allison moved a suspension of the rules in order to take up the joint resolution in relation to legalizing the acts of Henry Strickland, a justice of the peace in Green county, which was accordingly done; joint resolution was read the third time and passed.

On motion of Mr. Chapman of L., the Senate adjourned.

## HOUSE OF REPRESENTATIVES.
FRIDAY, Dec. 5, 1845.

*Petitions, Memorials, &c. presented.*

By Mr. Dowling, a petition from Vigo for a divorce.

By Mr. McCormick, from citizens of Tippecanoe.

By Mr. Mickle, from citizens of Steuben.

By Mr. Hill, of citizens of Jennings, praying that there might be attached to said county a certain tract of land belonging to Jefferson county.

By Mr. Riley, from citizens of Hancock; and

By Mr. Mickle, from citizens of Jay county; which were appropriately referred.

*Reports from Standing Committees.*

Mr McDonald, from majority of select committee to which was referred the proposition to receive the *viva voce* mode of voting for United States Senator, made a report; which was, on motion, laid on the table.

*Resolutions*

Were offered by Mr. Clymer to instruct judiciary committee to enquire into the expediency of a general law for the better payment of jurors; adopted.

Mr. Seawright, to instruct committee on canals and internal improvements to enquire into the expediency of reducing the penalty to pay for canal lands; adopted.

Mr. Tomlinson, to instruct judiciary committee to enquire into the expediency of requiring certain duties of county clerks; adopted.

Mr. Cox, as to expediency of causing clerks, &c., to publish legal advertisements in newspapers of their respective counties having the greatest circulation.

Mr. Wiley, as to expediency of amending the lawe in regard to recorders' fees; adopted.

Mr. Wiley, as to expediency of amending assessment laws, and imposing a road tax on personal property; adopted.

Mr Ferguson offered a resolution giving the use of the Hall on Tuesday, Thursday, and Friday evenings to Prof. Smith to deliver scientific lectures; but it was not agreed to.

The Speaker laid before the House a communication from Joseph R. Pratt, superintendent of the State Penitentiary, at Jeffersonville, respecting certain charges made against him, and requesting an investigation; referred to committee on State Prison.

Mr. Ferguson presented a resolution to grant the use of the Hall to H. G. Smith of Clark county, to enable him to lecture on Geology, Mesmerism, &c. The House refused to grant the use of the Hall.

*Bills Introduced.*

By Mr Taber, amending the act incorporating the Michigan road company; read twice and referred to a select committee.

By Mr Mooney, an act to extend the time of holding probate courts in the county of Jackson; read twice and referred to judiciary committee.

Messrs. Rousseau and Pennington moved to amend, by adding the counties of Greene and Harrison, which motions carried.

### ORDER OF THE DAY.

The joint resolution instructing our Senators and requesting our Representatives in Congress to procure the passage of a law extending the provisions of the preemption laws to the settlers on the Miami Reserve; passed to third reading.

Mr Moore introduced a bill (No. 14.) to reduce the per diem allowance of members of the General Assembly to $2 per day after the first of August next; read.

Mr Cruikshank, per the committee on elections, asked time until Tuesday next, to make their report in the case of Messrs. Lanius and Lane, in the contested election from Dearborn and Ohio counties; which was made the order of the day for this day.

Mr Secrest addressed the House on the subject, and wished an explanation of the reasons why the committee could not now report, and hoped the chairman would give the explanation.

Mr Cruikshank explained, and said the reasons were, the papers in the case were not all before the committee, and Mr Lanius was not present.

Mr Burns hoped the time would be granted, in view of the great importance of the principles involved in the decision of the question.

Mr McDonald addressed the House in favor of granting the time required, contending the reasons assigned for further time, were cogent and sufficient.

Mr Secrest said it was proper he should make an explanation, and that he had no partiality, either personal or political, between the contesting parties, but he viewed the law locating a member in a particular part of the county as clearly unconstitutional.

Mr Davis hoped the time would be granted, as it was important that the committee should act understandingly.

Mr Dowling thought the committee might, by retiring into the committee room, be prepared to report to-morrow morning.

Mr Stapp urged the extension of the time granted.

Mr Lowe agreed with the suggestion of the gentleman from Vigo, and hoped the committee would have leave to retire, so as to be prepared to report to-morrow morning. He had no personal or political preferences to gratify either way.

Mr. Rousseau approved of the suggestion of the gentleman from Vigo, and said, as a member of the committee, he believed they would be prepared to report in ten minutes after they met.

Mr. Porter contended that if the committee reported to-morrow morning, there would not be time to decide the question before the hour appointed to go into the Senatorial election.

Mr. Rousseau moved to amend the motion by inserting "two o'clock this afternoon," and that the committee have leave to retire immediately for the purpose of making their report.

Mr. Vandeveer moved to discharge the committee, and take a direct vote on the subject, without waiting for any report.

Mr. Sleeth took the same view of the subject, and said the facts were few, and the issue plain and simple; and could be as easily decided without a report as with it.

Mr. Vandeveer urged the importance of an immediate decision, as the election of U. S. Senator might be rendered nugatory in case the successful candidate succeeded by a *single* vote, and that one, perhaps, an illegal one.

Mr. M'Donald contended that the House was not prepared to vote on the question, and hoped its decision would not be pressed upon members without due deliberation.

Mr. Rousseau said the committee had before them the certificates of the Sheriffs of Dearborn and Ohio counties, certifying that in case the law providing that one of the members to be elected from the old county of Dearborn, shall reside in Ohio county, was constitutional, then Mr. Lanius was elected. This was the only question then, to be decided by the House, according to his view of the case.

Mr. Cox urged the great importance of the question, as a matter of future precedent, and hoped it would not be decided without great deliberation, and after the fullest investigation. For his part, he had no doubt that Mr. Lane was entitled to his seat; although he has no personal acquaintance with either of the contesting parties.

Mr. Sleeth said Mr. Lanius was sitting here as the Representative of a minority of the People of Dearborn county, and thereby trampling upon the rights of the majority; and in all republican governments a majority should rule. He hoped the question would be put immediately, and decided without further delay.

Mr. Secrest again addressed the House in explanation of his views as formerly expressed.

Mr. Stapp commented on some remarks made by Mr. Sleeth, intimating that members were bound by their oaths to vote in favor of the admission of Mr. Lane to the seat now occupied by Mr. Lanius. Mr. S. said the decision of the question in that way was not of such obvious propriety as the gentleman imagined, and that such a decision might seriously affect existing laws based upon similar principles, and thereby produce serious injury and inconvenience to vested rights and interests throughout the State. It was unprecedented in the annals of legislation to refuse to give a committee, whilst engaged in investigating important facts and principles, full time to make a report. An erroneous decision will not be confined in its effects to the solitary case under consideration, and he therefore hoped it would not be hastily decided upon.

Mr. Baker replied, and said the gentleman from Jefferson made a comparison with reference to county commissioners, (who are required by law to reside in particular districts;) but, said Mr. B., county commissioners were not, like members of the Legislature, constitutional officers, and therefore the comparison and analogy did not hold good.

Mr. Sleeth again addressed the House, in explanation of his views.

Mr. Vandeveer suggested that his friend from Jefferson, (if he had not yet had *time* to prepare a speech,) might reserve his remarks for the close of the debate; and, as closing speeches were the most effective, he would have the advantage in that respect. He liked to hear the gentleman speak very much, as he generally spoke very prettily, but he did not wish to delay the decision of this question for that purpose.

Mr. Osborn said the question was, whether the Legislature, under the 2d article of the Constitution, had the power to go beyond that instrument, and direct to be done what is not expressly provided for in the instrument. For his part, he was not prepared to say whether it had or not; but was persuaded the House was as well prepared now to vote as they would be next Tuesday. It was a question of constitutional law purely, and members must act upon it purely in a judicial capacity, according to their views of duty and of law.

Mr. Pennington said, from all the information he had, the question appeared to be purely a constitutional one. He did not think a district could be constitutionally changed. During the five years after the period provided for taking the State census, and he had also his doubts of the constitutionality of sliding members. This being his opinion, he believed that portion of the law providing for organizing Ohio county, which made it necessary that one of the three members to be elected from Dearborn should reside within the limits of the new county, was clearly unconstitutional. He therefore was convinced the member having the highest number of the popular vote was clearly entitled to his seat.

Mr. Clymer, although not a constitutional lawyer, was compelled, as a member of the House, to vote upon this question, and he should do so, endeavoring to obey the constitution which he was sworn to support, as he understands it. He was compelled, therefore, to differ with the venerable gentleman from Harrison as well as with his friend from Laporte, on this question; and, as the constitution contains no prohibition, he did not see why the Legislature had not the power to designate the portion of a county in which a member should reside. He believed the sitting member was clearly entitled to his seat, and he should so vote.

Mr. Slater contended that Dearborn county, (which he had the honor, in part, to represent,) was clearly entitled to *three* members, and such was the universal belief among the people of that county; and he hoped the House would so decide.

The question was taken on discharging the committee from the further consideration of the question, and carried.

On motion of Mr. Vandeveer, the House then resolved itself into the committee of the whole, Mr. Fuller in the chair, for the consideration of the subject.

Mr. Secrest offered the following preamble and resolution:

WHEREAS, at the late election of representatives to the General Assembly, in the representative district composed of the counties of Dearborn and Ohio, it appears by undisputed official returns, that James H. Lane, Esq., received 1555 votes, and that Wm. Lanius received only 1441 votes. And whereas, the qualifications of members of this House are defined and unalterably fixed by the constitution of this State, and are not subject to any restrictions or change by Legislative enactment. And whereas, those qualifications, so far as concern residence, are merely that the representative shall reside within his respective district. And whereas, the Legislature has no power to provide by law, in contravention of the provisions of said constitution, that such member shall reside in any particular portion of such representative district, whether composed of one or more counties, or to render ineligible to such office any man merely because he resides in one part of such district. And whereas, it appears by the returns aforesaid that the said Lane, in said election, received a majority of 114 legal votes over the said Lanius. Therefore,

*Resolved*, That the said James H. Lane is entitled, and be admitted a seat in this House, as a member thereof, to the exclusion of said Wm. Lanius.

Mr. Stapp addressed the House, at length, in committee of the whole, in an able speech, in favor of the right of the sitting member; and, when concluded, the committee rose, and through its chairman, Mr. Fuller, reported progress, and asked leave to sit again.

The House then adjourned.

AFTERNOON SESSION.

The Speaker laid before the House a communication from the Governor, enclosing the Report of the Visiter of the State Prison; which, being read, 500 copies were ordered to be printed.

The special order of the day for 2 o'clock being the Governor's message, the House went into committee of the whole, Mr. Pennington in the chair, to consider the same; when its various propositions were referred to the appropriate committees.

The committee, having got through, rose, reported progress through its chairman, and asked the concurrence of the House, and was discharged from the further consideration of the message.

The House then again resolved itself into committee of the whole on the contested election case, Mr. Fuller in the chair.

Mr. Rousseau read the clause of the constitution relating to the qualification of members, to show that instrument required no other qualification, as to residence, than that the member "shall reside within the limits of the county," and that consequently no new prerequisites of qualification, such as residing in a particular portion of a county, can be legally and constitutionally superadded by the Legislature, whilst acting under its provisions. Mr. R. then quoted from Judge Story to prove that the law bearing on the case was properly construed by him; and contended that the Legislature had just as much right to say that no man should be elected unless he weighed 200 lbs., or was of a certain height, or lived on a particular farm, or possessed some other arbitrary personal characteristic. The principle, he continued, was perfectly absurd, and if carried out into practice, would destroy every thing like republican and representative government. The Legislature had no right to interfere with an apportionment law once established, except in the manner, and at the stated periods named in the constitution. The principle contended for by him was, that if a member duly elected possessed all the qualifications required by the constitution as prerequisites to eligibility, the Legislature cannot *add* to those prerequisites by any arbitrary additions of its own.

Mr. Porter maintained that when the Legislature was not prohibited by the Constitution in express terms from doing an act necessary and proper to be done, it must, of necessity, possess the power. There was a great difference in construing language in the negative and language in the affirmative, where found in the Constitution. Although he had a great respect for the opinions of Judge Story, it should be borne in mind that, in the passages quoted, he cites to no authority and refers to no decisions, and merely gives his *opinion*. Wherever the Constitution does not take away a power, that power must of necessity exist in the Legislature; and Mr. P. therefore contended that the Legislature had a perfect right to pass the act erecting a portion of Dearborn into a new county, and making provision that one of the members to which the old county was entitled, should reside within the limits of the new county created out of a portion of its territory. Besides, the circumstance of all the Departments of our Government in the constitutionality of the law, should admonish us to be cautious how we declare a law passed under such sanctions, an illegal nullity. Mr. P. spoke at length, and fortified his views by referring to legal authorities.

Mr. Carr addressed the House at length. He assumed the position that, as the constitution does not prohibit changing representative districts at any time, and that the law of 1844 should govern in this case. He contended that to count the vote given to Mr. Lane in Dearborn county against the vote cast for Mr. Lanius in Ohio county, was a fraud upon the constituents of the latter gentleman.

Mr. Cox also spoke at much length, and contended that, if Mr. Lane was entitled to a vote in the county of Dearborn, at the August election, (which no one doubted,) it followed as an indisputable fact, that he must, of necessity, have been qualified to represent its citizens in the Legislature.

Mr. Osborne desired to call the attention of the committee to one principle, which is this: that our constitution defines what we may do, but not what we may not. All constitutions with which he was acquainted, (except that of Massachusetts,) were limitations of the power, to be exercised under them by the representatives of the people. He contended that the people had the right to alter and amend their constitution of government whenever they may think proper, notwithstanding the opinions advanced, to the contrary, in this debate. Mr. O. said all legislative authority was, by the 1st section of the 3d article of the Constitution, vested in the General Assembly, and the remaining sections were limitations of that power. He then compared and quoted the difference in the phraseology of sections 2, 3 and 4 in relation to Representatives, "several counties," and "county," and "each county," with sections 5, 6 and 7, where, speaking of Senators, it says, "counties or districts." He referred to the 5th and 6th of Blackford, and to other authorities to show that unless the unconstitutionality of an act be so obvious as to admit of no doubt, then it is constitutional. Mr. O. ridiculed the idea of a strictly liberal construction of the constitutional provision under consideration. It would lead to the absurdity, that the union of two or more counties in one representative district, is clearly unconstitutional, because, of necessity, the representative of such district cannot be a resident of more than *one* county composing the same; and yet, if the representative must reside within the limits of the county he represents, how can he do so in districts composed of two or more counties? A literal construction of the phrase, "must be a resident within the limits of the county," would make all such districts unconstitutional, and deprive many counties of representatives on the floor of this House.

Mr. O. said that there was a great difference between our constitution and that of the United States. In the latter clause, there is an express reservation to the people and to the States of all power not expressly and specifically enumerated and granted away; but no such reservation in our State constitution. Mr. O. quoted various authorities to sustain his views, and to justify the vote he was about to give. He believed he would be found with the minority, but he still felt it incumbent on him to discharge his duty in a conscientious manner, and according to the best lights he had.

Mr M'Donald said that all Legislatures were mere creatures of the Constitution under which they acted. The people are the original source of all power, and their will should be faithfully carried out by their servants. The power to district the State, and take the census, are directory obligations resting upon us under its provisions. The only matter to be argued before this committee as to whether the Legislature has the power to designate the portion of a representative district from which a member must be elected. This is the question, and it is the district as a whole that we are to look at, without any reference to mere county lines. When this question is settled in the mind of a member, he is prepared to vote upon it. Every citizen is eligible to be a representative on this floor, when he possesses certain qualifications therein provided. Mr. Lane according to this test, does not possess the qualification of residence, as the Representative of Ohio county, required by law, and is therefore not eligible as its Representative upon this floor.

The committee of the whole rose, reported progress, and on motion, was discharged from the further consideration of the case.

The House then adjourned.

### Ecclesiastical Notice.

The Rev. A. H. MYERS, having taken charge of the English Lutheran Church in this place, preaching may be expected every Sabbath at the usual hour. Come, hear and judge for yourselves. His room is at the house of A. Haugh near the Circle.


### Phrenology, Human Magnetism and Geology.

PROFESSOR SMITH, from Jeffersonville, will commence his course of popular lectures Saturday evening, December 6, at the Baptist Church, and continue every evening (except Thursdays and Sundays.) Doors open at half past 6, and Lecture at 7 o'clock. At the close of each Lecture a variety of experiments will be performed. Tickets 20 cents; for children 10 cents at the door.

The clergymen of the city and their ladies are respectfully invited to attend. A private class in Human Magnetism will be commenced as soon as a sufficient number have subscribed. Terms $2 for six lessons. All possess the power and may learn how to apply it to useful purposes. Phrenological examination charts given at No 44, Palmer House. 54-tf

### PORTRAIT PAINTING.

JOSEPH O. EATON, *Portrait Painter*. Room over Pope's store, south side of Washington street, a few doors east of the Palmer House. 54-tf

### Bank Scrip and Treasury Notes.

THE undersigned has on consignment a lot of *Bank Scrip and Treasury Notes* which he will exchange upon advantageous terms to those wishing to use either. Borrowers of sinking fund and others at a distance, would do well to apply by letter for the amount they want before the sinking fund sales in November. If it is desired I will make payment for them at the proper office *without charge*.

I shall continue to pay taxes in any county in the State. Funds should be forwarded by 1st of December next.

39-tf A. W. MORRIS, Gen. Agent.

### DOCTOR EVANS.

OFFICE over Miller's Hat Store, 2d door east of Washington Hall. 2-w-y


## THE MARKETS.

*CINCINNATI, Dec. 2, 1845.*—*Hogs*—We could find but a few sales in our round this morning. A sale yesterday afternoon of 358 head, av wt 280 lbs., at $4 50; 200 do, good, at same; 300 do. av wt 200 lbs. at $4 40; 50 do. av wt 230 to 259 lbs, at $4 45; 94 do av wt 210 lbs, at 4 37. A sale this morning of 170 head, a medium lot, at $4 50. At this rate, however, there are more sellers than buyers. The third lot of Indiana hogs arrived this morning.

*Flour*—A sale of a wagon load of Rye Flour this morning at $4 30. Wheat flour is selling by dray load from store at $4 30a4 50. There is no demand for shipment. The last sale was at $5.

*NEW YORK, Nov. 26, 1845.*—The quantity of bread stuffs now coming to tide water is near 300,000 bbls per per week, worth $2,100,000 weekly. The price of other provisions is also advancing. The receipts of Flour and Wheat at tide water will reach fully 3,000,000 bbls. against 2,500,000 bbls. last year—the latter averaged $4½ per barrel, and sold for $11 100 000. The present price of Flour is $7, and if the receipts, as they may command $6 average, the value will be $18 000,000 sold from the canal. This for one article only gives a credit of $7,000,000 more against the Atlantic cities in favor of the West, than was the case last year. This amount must either be remitted thither in increased sales of goods or in specie. It will be specie to some extent, but the swelling credits of banks in this State and in Ohio will promote extensive purchases of goods, and tend, in an eminent degree, by diverting trade from its legitimate channels to bring on a revulsion. In order to observe the immense benefit which a foreign demand is to the farmers, we will compare prices August 1 and Nov. 19 in the New York market:

| | | |
|---|---|---|
| Genesee Flour, | $4 25a4 31 | 6 87 7 00 |
| Rye " | 2 87a3 25 | 4 37a4 44 |
| Corn Meal, | 2 31a2 50 | 3 87a4 12 |
| Wheat, bushel, | 90a1 00 | 1 45a1 50 |
| Rye, North, | 68a 69 | 79a 80 |
| Corn, " | 54a 54 | 85a 87½ |
| Oats, " | 42a 44 | 52a 53 |
| Cheese, | 5½a6½ | 7a 8 |

We mentioned lately the probable course of the Flour market in relation to the English demand. It is now well ascertained that all the accounts which reached us of the state of the harvest were grossly exaggerated. The English crops are deficient to some extent, but less so than on some occasions. The state of the Irish potato crop is a matter of more importance, and it operates peculiarly. It appears that many potatoes, dug in a state apparently healthy, decay rapidly when put down for preservation, and therefore a real want may take place early in the spring. At present prices are not high, nor is there any real distress. If the accounts brought are true to any considerable extent, it will not be until early in the summer that the effects will become apparent. If the potatoes will not keep, holders will naturally press sales, and this will depress prices for the present, until exhaustion makes the demand real. In order to counteract the anticipated evils, the Dublin corporation proposed two measures, which, if adopted by the imperial government, will be of great interest to the United States. These are to prohibit the export of food from Ireland, and also distillation. In order to estimate the effect which such measures would produce upon the supply of food in Ireland, we may take the number of quarters of each kind of grain imported into England for twenty-one years, in periods of seven years each:

| | Wheat & Flour. | Oats & Meal. | Barley. | Total. |
|---|---|---|---|---|
| | qrs. | | | qrs. |
| 1821-27 | 2,905,280 | 8,335,915 | 456,321 | 11,773,872 |
| 1828-34 | 4,672,825 | 12,460,102 | 999,759 | 18,299,403 |
| 1835-41 | 2,989,660 | 15,454,536 | 917,535 | 19,568,633 |

This is equal to 2,500,000 bushels of wheat per annum. The quantity of liquor distilled in Ireland, according to official returns, is 14 000,000 gallons average, which is equivalent to 8,000,000 bushels of grain or food, some being potatoes, barley, &c. These two measures would, therefore, give Ireland 10,500,000 bushels of food more, providing those who most want it are able to buy, and thus the government will probably aid by the construction of public works to employ them.

The effect will be on England to enhance the deficit of her own crops by the amount usually obtained from Ireland, and withheld. This must be procured from the United States. The stoppage of the distillers will have a prodigious effect upon the price of liquors here, which have already advanced considerably in consequence of the rise of grain. It may well be questioned, however, in how far the retention of good grain in Ireland will compensate for, or become a substitute for the potatoes that have rotted. If laborers, who have nothing but potatoes that they raise themselves, and no accumulated property in any shape, as a reserve, find their potatoes rotted on their hands, it will be difficult for them to buy wheat, or even oatmeal, as a substitute. This difficulty may, in some degree, be overcome by employment of the Irish, through an extended expenditure.—*News.*

### Cincinnati Prices Current.
*Corrected from the Chronicle of November 22.*

| | | | |
|---|---|---|---|
| Flour, city mills, bl | $0.00a5.50 | Oil, linseed, gall | 0 64a0 65 |
| Canal & wagons, | 5.10a5.25 | Salt Kanawha, bush | 0 22a0 26 |
| Grain, wheat, bush | 0 80a0.00 | Seeds, flax, bush | 1 00a1 06 |
| Corn, | 0.28a0.31 | Timothy, | 2 00a3.50 |
| Oats, | 24a0 28 | Clover, | 5 25a5.50 |
| Hay, loose, ton, | 12.00a15.00 | Whisky gall | 0 23½a0.23¾ |

### Sales of Stock in New York, Nov. 21.

| | |
|---|---|
| United States 6's at | 110 a 000 |
| Indiana Bonds at | 39½ a 40 |
| Illinois 6's at | 39½ a 40 |
| Kentucky 6's at | 101½ a 000 |
| Ohio 6's at | 97 a 97½ |
| Pennsylvania 5's at | 73¾ a 74 |


PROSPECTUS OF THE

### HERALD OF TRUTH,
A Monthly Magazine,

*Devoted to Scriptural Expositions, Doctrinal and Practical Essays, and the advancement of Primitive Christianity.*

B. F. FOSTER, Editor and Proprietor.

This work is designed for the young and growing west—it will be devoted to the spread of Christianity in its primitive form—and will advocate the great principles of all true religion, both in theory and practice; while at the same time, it will be unsparing in its denunciations of error, let it assume whatever garb it may. Our object will be to instil into the minds of the children of men those pure and holy principles that are calculated to enhance their happiness and well being.

That a Magazine of this character is much needed in the west we have every reason to believe. Although the objection may be urged by some that there are already too many periodicals devoted to Universalism. But this objection we consider trivial, when we witness the number of believers that are daily being added to our ranks. And besides, a work of this character would in no way interfere with the other publications of the day, as it is intended merely for a repository of religious knowledge.

We shall spare no pains to secure for the Herald such contributors, both in prose and poetical departments, as shall render it worthy of the patronage of a liberal and enlightened community.

Each number will contain twenty-four octavo pages; and will be enveloped in a neat cover—making at the end of the year a handsome volume of near three hundred pages.

Our terms will be one dollar a year, payable in advance. Any person sending us five dollars, shall receive as an equivalent, six copies of the Herald—or ten dollars, shall receive therefor, thirteen copies.

To those among whom we have labored in former times, we look for aid in this our contemplated publication. And we would earnestly solicit the Universalists throughout the great valley of the west, to contribute their little mite, and use their influence, to establish the work upon a permanent basis.

We design issuing the first number about the first of January or February, or sooner, if a sufficient number of subscribers can be obtained.

It will be published at Indianapolis, Ia., on the 1st of each month.

As the Herald will not exceed one-and-a-half ounces in weight, the postage on it will be only two-and-a-half cents.

We would respectfully solicit those to whom we send this Prospectus, to act as agents for us; and by so doing, they will confer a favor that will be gratefully acknowledged. B. F. FOSTER.

All letters should be addressed, [post paid] to B. F. Foster, Indianapolis, Ia. 55-tf

### LITERATURE, FOR 1846.
The Southern Literary Messenger,

Is a Monthly Periodical, devoted to every department of Literature and the Fine Arts. It has been established more than eleven years, during which it has stood at the head of American Periodicals. It is published in the neatest style, and contains a great variety of interesting and instructive reading;—differing widely from a majority of our publications, in the solidity and utility of its contents.

Novels, Tales, Poems, Travels, Essays, Critiques, Reviews, Historical and Biographical Sketches, Papers on the Army, Navy, General Politics and other National Interests, adorn its pages.

To the South and West it confidently appeals for support. Whilst it is *distinctively* the friend and advocate of THE SOUTH AND WEST, it is not *sectional*, having always circulated quite widely in the North and East, and having imparted a HIGHER NATIONAL CHARACTER to the Periodical Literature of the United States. Its motto is "In the Union and for the Union! In the South and for the South!" But the South and West should especially cherish it, as it is the only Literary Journal, of long and high standing, within all their wide borders, and has vindicated and promoted their rights and interests. During another year, it will seek to extend its usefulness and fame, and solicits the increased patronage of the public; and also invokes the aid of its present patrons, in extending its circulation.

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Whoever will procure us 4 new subscribers and send $20, shall receive the Messenger gratis; or $4 in money; and in the same proportion for a larger number of subscribers.

B. B. MINOR, Editor and Proprietor.

RICHMOND, VIRGINIA. 50-tf