INDIANA LEGISLATURE.

SENATE.

SATURDAY, Jan. 31, 1852.

Senate met.

Resolutions Offered.

By Mr. Niblack, that the committee on the State Library inquire into the expediency of purchasing thirty-eight bound volumes of the "Western Sun and General Advertiser," published at Vincennes by Elihu Stout, for the use of the State Library; adopted.

By Mr. Reid, to furnish the law reform commissioners with a copy of each bill printed by order of the Senate; adopted.

Bills, &c., Introduced.

By Mr. Dunn, a joint resolution in relation to the colonization of negroes and mulattoes by the government of the United States.

The bill providing a mode for criminal prosecution and to modify the grand jury system, came up in order.

The question was upon the motion of Mr. Dunn to recommit with instructions, when Mr. Emerson called for a division of the question.

Mr. Dunn made a lengthy and able argument against abolishing or modifying the present grand jury system.

A division of the question having been ordered, the Senate decided to re-commit—ayes 26, noes 12.

The question then being upon adopting the instructions proposed by Mr. Dunn, it was decided in the affirmative—ayes 22, noes 17.

Mr. Athon offered a resolution that when the Senate adjourn it adjourn to meet on Monday next; adopted.

Messages of the House were taken up and disposed of.

Mr. Crawford introduced a joint resolution asking the general government to provide means for the defence of Oregon emigrants.

Senate adjourned.

HOUSE OF REPRESENTATIVES.

SATURDAY, Jan. 31, 1852.

House met.

Petitions were presented by Messrs. Nelson, Hostetter, Reynolds, Hay of Clark, Stuart, and Hicks.

Mr. Holman introduced memorials on the subject of fees, &c., from George Moore, William Steele, and A. K. Campbell, which were referred to the committee on fees and salaries.

Also, a petition from A. Showalter, Esq., and others, citizens of Lawrenceville, in Dearborn county, praying for a change in the name of their town; which was referred to the judiciary committee, with instructions to inquire whether the change prayed for could be made under the law on that subject passed at the present session.

Reports from Committees.

By Mr. Holman, from the judiciary committee, reporting back a bill providing the mode of proceeding against canal companies, when they refuse or neglect to build or repair bridges, and recommending its passage. Passed—ayes 75, nocs 1.

Resolutions Introduced.

Mr. Donaldson submitted a resolution requiring the judiciary committee to report back the bill allowing railroad companies to borrow money; lost.

Orders of the day.

Several bills were read a second time and appropriately disposed of.

Bills read the third time.

A bill for the encouragement of agriculture. Passed—ayes 75, noes, none.

A bill for the protection of wool growers.

Mr. Cockrum moved to re-commit the bill, with the following instructions:

"And if such dog should not be killed, and commits a second offence, the owner of such dog shall be liable or subject to pay to the owner of such sheep so killed, double the value thereof, and also for the third offence treble the value thereof."

Mr. Stuart said it would not be necessary to refer with such instructions, as such is now the law.

The instructions were not concurred in.

The bill then passed—ayes 69, noes 7.

Mr. Hudson moved to amend the title so as to read "A bill for the protection of sheep;" which was agreed to.

A bill (Senate) for dividing the State into Congressional districts.

Mr. Hay of Clark moved to recommit, with instructions to detach Switzerland from the Third District and attach the same to the Fourth District.

Mr. Stuart moved to amend the instructions by inserting another bill, which was read.

Mr. Buskirk moved a call of the House, which was ordered, when eighty-four members answered to their names.

Mr. King moved that all further proceedings under the call be dispensed with; lost.

All the absentees were excused.

Mr. Hay of Clark moved that all further proceedings under the call be dispensed with; which was agreed to.

The question then recurred on the motion of Mr. Stuart to amend the instructions of Mr. Hay of Clark; which was disagreed to—ayes 32, noes 50.

Mr. Spencer said that he desired to have Switzerland county attached to the Fourth District.

Mr. Holman said that if Switzerland county was attached to the Fourth District, it would leave that district precisely the same territory the old Third District has been composed of for the last ten years.

The motion to recommit, submitted by Mr. Hay of Clark was negatived—ayes 39, noes 40.

Mr. English moved that the House adjourn; lost—ayes 15, noes 68.

Mr. English moved to reconsider the vote by which the House refused to concur in the instructions submitted by Mr. Hay; which was agreed to—ayes 43, noes 40.

A debate ensued on the merits of the bill, in which Messrs. King, Gibson, and Holliday of Parke participated.

Mr. Buskirk moved that the House adjourn; which was not agreed to—ayes 20, noes 60.

Mr. Hays of White moved to amend the amendment by detaching White and Benton from the Eleventh and attaching them to the Eighth District; lost—ayes 16, noes 64.

Mr. Stuart moved to amend the amendment so as to place Cass and Miami in the Eleventh, Elkhart and Kosciusko in the Tenth, and Wells, Huntington, Adams and Jay in the Ninth District.

Mr. Smith of Spencer demanded the previous question; which was not seconded.

The amendment of Mr. Stuart was then negatived—ayes 37, noes 45.

Mr. Humphreys moved to detach Vermillion from the Seventh and attach it to the Eighth District; lost.

Mr. Davis moved to attach Jefferson and Jennings to the Fourth District, and that said District elect two members of Congress; lost.

Mr. Goudy moved that the Democrats report a bill that they will vote for; lost.

Mr. Withers moved that the House adjourn; lost.

Mr. Holliday of Parke moved to amend by striking out all after the enacting clause, and inserting a bill which he read.

Mr. English moved that the House adjourn; lost—ayes 15, noes 66.

Mr. Mudget moved that further proceedings on the bill and the amendments be postponed until Wednesday at 2 o'clock.

Mr. English moved to amend so as to postpone until Monday at 2 o'clock.

Mr. Stuart moved to amend the amendment so as to postpone until Monday week at 2 o'clock; lost—ayes 29, noes 59.

Mr. Withers demanded the previous question; which was seconded, the main question ordered, and the bill lost, for want of a constitutional majority, as follows:

Ayes—Messrs. Beeson, Behm, Bryant, Buskirk, Carpenter, Cockrum, Cowgill, Crawford, Dice, Dobson, Donham, English, Geddes, Goudy, Graham, Gunn, Helmer, Hicks, Huey, Humphreys, Lindsay of Howard, Litchfield, Major, Manson, McDowell, Nelson, Scudder, Shanklin, Smith of Spencer, Stover, Struble, Suit, Sumner, Taggart, Thompson, Walker, Watson, Wells, Williams, Wilson, and Mr. Speaker—41.

Noes—Messrs. Barker, Beane, Brady, Cromwell, Davis, Donaldson, Doughty, Douthit, Foster, Hanna, Hart, Hays of White, Holladay of Parke, Holliday of Blackford, Holman, Hostetter, Hudson, Hunt, Leviston, Lewis, McAllister, McConnel, McDonald, Miller, Morris, Modgett, Owen, Porter, Ray, Reynolds, Schoonover, Smith of Marion, Spencer, Stanfield, Staton, Stuart, Sweet, Torbet, and Withers—39.

On motion the House adjourned.

SENATE.

MONDAY, Feb. 2, 1852.

The Senate met.

Petitions, &c., Presented.

By Mr. Teegarden, of 1850 citizens and ladies of Laporte county, on the subject of temperance. Referred to committee on temperance.

By Mr. Holloway, of citizens of Leavenworth, on the same subject. Referred to temperance committee.

By Mr. Hester, of citizens of Monroe county, asking the repeal of a certain town charter. Referred to the committee on corporations.

Reports from Committees.

By Mr. Berry, from the committee on federal relations, a bill in accordance with a resolution of the Senate heretofore adopted, to make provisions for colonizing the negroes and mulattoes now in this State, and their descendants.

The bill appropriates $5,000 and all fines collected under the operations of the 13th article of the Constitution, for colonization purposes, to be expended under the direction of the State Board of Colonization. $3,000 of the amount appropriated is to be expended in the purchase of land in Africa, to be divided into 100 acre lots and donated to settlers from this State in the order in which they may apply for the same. The bill also directs the State Board to give to every African emigrant the sum of $50 to defray the expenses of his emigration. The Governor, Treasurer, and Auditor of State are constituted the State Board of Colonization.

By Mr. Saffer, from a select committee, returning bill of the Senate to authorize county boards to declare water courses navigable, with an amendment, recommending its passage.

The passage of the bill was advocated by Messrs. Saffer, Niblack, Miller, Dunn, Cravens, Davis, and Reid, and opposed by Messrs. Emerson, Washburn, and Secrest.

The report of the committee was concurred in.

After being further amended, the bill was ordered to be engrossed.

Mr. Niblack offered a resolution instructing the committee on criminal law to amend the bill of the House in relation to grand juries so that no grand jury shall consist of more than 9 or less than 7 persons, and that no indictment should be found by less than six jurors. Not adopted.

Mr. Athon asked that the following letter from Major Simonson, to a gentleman in this city, be read for the information of the Senate. Which was done.

JEFFERSONVILLE, Jan. 28, 1852.

DEAR SIR:—In my telegraphic despatch of yesterday, I stated I would write you on the subject of the Senate's resolutions in relation to the articles presented by me to the State Library as curiosities.

I object to the resolutions, because I conceive they treat my donation at least discourteously, by diverting it from its intended purpose. The history of the articles, so far as I am concerned, is as follows:

During my sojourn in Mexico, I was in the habit of purchasing books, paintings, pictures, medals, and other articles, deemed by me curious or interesting, and I accumulated a considerable cabinet. By a friend returning to the States, I sent two boxes containing articles thus obtained to my wife, and I wrote to her to take from the boxes an ancient armour, some books, paintings, &c., and send them to my old friend, John Dillon, to be deposited in the State Library. She made her own selections, and not understanding the Spanish language, may have chosen books inappropriate. My daughter, in a girlish freak, wrote in some or all of them "taken from the Halls of the Montezumas," and this is the handwriting charged on myself, or clerk, as being done at the City of Mexico. The friend who was the bearer of the articles to Indianapolis, without consulting myself or family, thought proper to make a public presentation in my name to the Legislature of the State, for the purpose of being deposited in the State Library as curiosities. The donation, as I understood, was accepted and the deposit ordered accordingly. I had no wish to create notoriety in this matter, and had I been consulted would have adhered to the presentation through Mr. Dillon.

On the arrival of Quitman's Division at the Main Plaza of the City of Mexico, on the 14th Sept., 1847, it was ascertained that a great number of Mexicans (supposed 500) were plundering the National Palace, and Col. Watson, of the Marine Corps, was ordered to drive them out, which was done at the point of the bayonet. My own regiment was engaged in repulsing attacks from the streets and house tops until night, and bivouacked in the Palace after dark. The armour was taken from this Palace, and was one of about two hundred suits deposited there. These armours may have been in Mexico since the days of Cortez. They unquestionably belong to a former age, and as I understood had been used on *gala* days under the Spanish Government. I do not know if they were ever used under the Mexican authority. I thought them curious, and only valuable for their antiquity; and as many of my brother officers were sending suits of these armour to their friends, and the States from whence they hailed, I supposed a similar present to the Library of the State of my adoption, and where I had spent thirty years of my life, would be acceptable, perhaps gratifying.

The charge that any of the articles were taken out of the *Cathedrals* or *Churches*, by myself, or through my agency or encouragement, is wholly untrue. As above stated, the books, paintings, pictures, medals, charms, &c., (for I brought away and sent home several medals of my *Lady of Guadalouqe* and my *Lady of Los Remedios*) were purchased by me from Mexicans, and paid for with my own money. The persons from whom they were bought were Roman Catholics, and it can scarcely be believed that these persons would desecrate and plunder their own Cathedrals or Churches.

Those knowing the Mexican character, and aware of the veneration and reverence Mexicans feel for their religion and its ordinances, cannot believe it! I am not aware that I committed any offence against religion or morals, in their purchase or disposition. Perhaps I may be singular in my desire for obtaining Roman Catholic Theological books. During the last fall and summer, I purchased at a second hand book store in St Louis, a Roman Catholic version of the Bible, a Prayer Book, and other Catholic Theological books in the English language. I also purchased at the Catholic book store, a number of copies of Father De Smets' "Oregon and the Rocky Mountains," and distributed them among my friends. This singularity I hope is not criminal, and I trust that the possession of this Bible, Prayer Book, &c. will not make me amenable to the charge of stealing them from the Cathedrals or churches of St Louis. Among my friends, I am proud to count a number of Priests and citizens of the Roman Catholic faith,—men whom I esteem for their piety, talents and taste; and knowing their worth and appreciating their friendship, were I to donate the articles now in the State Library to individuals, I should certainly give these men the preference. Not having the honor of a personal acquaintance with the Reverened gentlemen and Catholic citizens of Indianapolis, and not doubting their worth or respectability, I cannot conceive that I would do them any wrong or injustice by preferring those whom I know and esteem for their personal relations to myself. I therefore *most solemnly protest* against the disposition of this donation made by the resolutions of the Senate. I protest against diverting the articles from the object for which they were accepted. I protest against the disposition made by the resolutions, whatever may have been the motive of the introduction, or whatever the language in which they may be couched. They contain an implication against myself, which no verbal explanation can remove, and which the next generation must consider palpable. I claim the right, in case the State authorities wish their removal from the State Library, to dispose of them as I deem most appropriate.

Respectfully your friend, &c.

JOHN S. SIMONSON.

T. WARE GIBSON, ESQ., INDIANAPOLIS, IND.

Mr. Athon said, in justice to Major Simonson, he thought this letter should be placed upon the journals, and he would make a motion to that effect.

Mr. Holloway said that he thought the course pursued towards himself by the friends of Major Simonson, was unjust, illiberal, and slanderous in a high degree. He denied in strong and emphatic language that he ever made the charge against Major Simonson of stealing these articles. He hoped the disclaimer of Major Simonson would be placed on the journal, and that this subject, which was calculated to excite so much ill-feeling among Senators, should be passed over and forgotten.

The communication was then, by consent, ordered to be placed on the journal.

Bills on their Third Reading.

A joint resolution of the House to provide for the publication of the Constitution of this State with the laws passed at the present session. Passed—ayes 38, noes 2.

Senate adjourned.

AFTERNOON SESSION.

Senate met.

The Homestead exemption bill, having been heretofore made the special order, was taken up.

A call of the Senate was ordered, and the absentees sent for.

After some time the call was suspended, the absentees having made their appearance.

The question was upon the engrossment of the bill.

Mr. Cravens moved to recommit the bill to the judiciary committee, with instructions to report a bill containing the following provisions: that every debtor shall have exempt from sale under execution, property to the amount of one hundred and fifty dollars, either personal or real as he or she may elect, provided that the creditor, in all cases is worth more than one hundred and fifty dollars. If the creditor is worth less than one hundred and fifty dollars, the debtor in such case shall not be entitled to the benefit of such exemption; and also provide for the carrying into effect these provisions on the 4th of July, 1852.

Mr. Spann opposed the adoption of the instructions. He desired to see $500 worth of both real and personal property exempt from execution. He thought $150 worth of property was totally inadequate for the support of a family.

Mr. Cravens defended his motion. He thought the instructions proposed by him were in accordance with the wishes of his constituents. He thought the Senate should pause before making such a radical change as the one proposed by the original bill.

The question being on recommitting with instructions, a division of the question was called for, which was ordered, and the Senate refused to recommit; ayes 18, noes 23.

Mr. Defrees moved to strike out $300 worth of personal property and insert $250.

Mr. Spann moved to amend the amendment by striking out $250 and inserting $300. Mr. Spann was opposed to making any invidious distinction between those who owned real estate and those who did not.

Mr. McCarty thought that on the score of credit the persons whom the bill proposed to benefit would be more benefitted by placing the amount exempted at $250 than $500. He also was opposed to making invidious distinctions in favor of land-owners, and hoped it would not be done.

The question being on striking out $500 in relation to personal property, it was decided in the negative—ayes 11, noes 27.

Mr. Cravens moved to amend by fixing the time at which the law should go into effect at July 4th, 1853, instead of 1852. Lost.

Mr. Berry moved to amend by adding a section providing that no person should be entitled to the provisions of this act until he should file with the clerk of the circuit court a sworn statement of his debts and property. Lost.

Mr. Cravens moved to amend by striking out the words "in addition to the property now exempt by law from execution," so as to limit the amount of property exempted by the bill to $500.

Mr. Emerson opposed the amendment. He thought if a man's farm was exempted from execution, he should be allowed to retain a sufficient amount of personal property to enable him to cultivate that farm.

Mr. Cravens said that the debtor was allowed to retain both real and personal property, under the provisions of the bill, and he thought that the friends of the bill ought to be satisfied with the $500, and not claim $625, as the bill really did.

Mr. Spann agreed with Mr. Cravens. He thought $500 sufficient to effect the objects of the bill.

Mr. Reid took the floor and made an able and extended argument in favor of Homestead exemption.

The question being upon the motion of Mr. Cravens to strike out, it was decided in the affirmative—ayes 27, noes 15.

Mr. Slack offered an amendment which was lost.

Mr. McCarty moved that nothing in this act should be construed to exempt the property from liability for the payment of funeral expenses and for necessities furnished in case of sickness of any of the debtor's family; lost.

Mr. Emerson offered an amendment which was lost.

Mr. Dunn opposed the bill. He thought its effect would be to shut out entirely from credit, one-third of the population of the State. Rather than vote for this bill, he would vote to repeal all laws for the collection of debts.

Mr. Hester replied to Mr. Dunn, and instanced several examples of the application of principles similar to those contained in this bill to show that credit does not depend upon collection laws, but upon the character of the person asking it; and that the easy collection of debts depended not upon the amount of property owned by the debtor, but upon his honesty and willingness to pay.

Mr. Saffer was opposed to the exemption law. He was instructed to go against this law more than upon any other subject, and he would vote for exempting no more property from execution than an amount similar to what is now exempted.

Senate adjourned.

HOUSE OF REPRESENTATIVES.

MONDAY, Feb. 2, 1852.

The House met.

A petition was presented by Mr. Hicks on the subject of temperance, and appropriately referred.

Resolutions Introduced.

By Mr. Smith of Spencer, instructing the judiciary committee to report a bill making seduction a capital offence.

Mr. S. submitted it to any gentleman in the House, whether they would not much rather a man would take the life of his daughter than ruin her character by seduction.

The resolution was disagreed to—Messrs. Brady, Douthit, Hays of White, Henry, Holliday of Parke, Lewis, Litchfield, McDonald, McDowell, Porter, Reynolds, Schoonover, Smith of Marion, Smith of Spencer, Williams and Withers, voting in the affirmative.

By Mr. Doughty, requesting the committee on temperance to report to the House the number of petitions before them and the number of signers on each; adopted.

By Mr. Beeson, directing the committee on ways and means to report a revenue bill containing the following provisions, to-wit: for State purposes, 15 cents on each $100, and 50 cents on each poll. That in addition to the above, there shall be levied one cent and seven mills on each $100 for the Insane Hospital; two cents and two and a half mills for the Deaf and Dumb Asylum, on every $100; and one cent and five mills for the Blind Asylum, on every $100 according to law, which shall be paid over, when collected, to said institutions.

Mr. Brady moved to amend the resolution by striking out seven mills and insert two cents; lost.

Mr. Buskirk moved to make the resolution one of inquiry; which was agreed to, and the resolution as amended was agreed to.

By Mr. Withers, that the committee on fees and salaries inquire into the expediency of providing by law, for the payment of jurors and witnesses in trials before justices of the peace, as follows: thirty cents and mileage to each juror and witness in each case; adopted.

By Mr. Owen, that in establishing a Normal department for the purpose of educating school teachers, free of charge, and to be sustained out of the State University funds, it is expedient that the same should be located at Bloomington.

Mr Owen said that he had submitted the resolution in order to obtain the sense of the House, relative to the location of this institution. He was favorable to Bloomington.

Mr. Holman said that he thought this the proper mode of obtaining the sense of the House. By this mode members can vote directly upon one single proposition. He was of opinion that the State should not embark in any system of schools, other than common schools, where every child in the State can derive equal benefits. He therefore moved in order to get the views of the members of the House on this subject, the following preamble and resolution as a substitute for the one submitted by Mr Owen:

WHEREAS, in the opinion of the House, the benefits of the fund now appropriated to the use of the State University, must, from necessity, be enjoyed by comparatively a small portion of the youth of the State; And whereas, the spirit of the constitution requires an equal enjoyment by all of the beneficence, justice and liberality of the State, and the common school system opens the only channel for the equal enjoyment of the rights of education, therefore,

Resolved, That the University fund and the proceeds of lot No. 25 in Indianapolis, commonly known as the University square, should, in the opinion of this House, be applied to the general purposes of common schools throughout the State.

Mr. Owen moved to amend the resolution by striking out "common schools throughout the State," and insert "a Normal school." Whilst he contended that the State did not possess the power to transfer the amount arising from the grant of Congress for a "Seminary of Learning," to common schools, yet he thought the whole amount might be appropriated to the establishment of a Normal school. He thought that this would be the most appropriate disposition that could possibly be made of this fund, inasmuch as there is a diversity of opinion among gentlemen on this floor, as to the power of the Legislature to divert this fund to common school purposes.

Mr. Hudson thought that both the original resolution and the substitute were premature.

Mr. McDonald was in favor of transferring the funds of the University to a system of common schools.

Mr. Spencer said that he was well satisfied that the Legislature has the right to transfer not only the university funds, but the proceeds arising from the sale of the lot in this place to the common school funds. He was in favor of granting these funds to an institution where all alike would be benefitted by it.

Mr. King thought that the resolution submitted by Mr. Owen was not premature. It was necessary to the committee on education, who were about reporting a bill establishing a Normal department in the State university. He also contended that the Legislature had no power to divert the funds by which the State University is sustained; and even if they had the power, he thought it would be bad economy to transfer it to another object.

Mr. Buskirk said that the constitutional question has already been decided by the Supreme Court in favor of the University at Bloomington; and therefore the funds cannot be diverted to any other object. He thought the best mode of dispensing with this matter was to establish a Normal Department in the University.

Mr. Spencer said that the decision of the Supreme Court was merely that the lands claimed by the Vincennes University belonged to the State, and the question as to whether the Legislature had the power to transfer the funds arising from the grant to the common school fund, was not before the court, nor did the court even refer to this question.

Mr. Beach said he believed the Legislature had the undoubted right to divert these funds to common school purposes. He was of a different opinion to some gentlemen on this floor, that the amount of the grant was a very insignificant sum, and should not be added to the common school funds. It was drops that make up all great bodies; and if this is but a drop, it will assist some at least in making up the great basis upon which we intend to establish our common schools. It was well known that the swamp lands will not yield as much as at first thought, if they yield anything at all, and hence this source, from which we had anticipated a considerable sum for common schools, having failed, it behooves us to look to other sources for a basis of a common school fund.

Mr. Holladay of Parke was in favor of appropriating the funds of the State University to common schools.

Mr. Smith of Marion opposed the original resolution and the amendment.

Mr. Holman, at great length, very ably argued in favor of diverting the funds arising from the grant of Congress to the use of common schools. He contended that the State did not hold these lands in trust for any special purpose, but held them in fee simple for the purposes of education. He also doubted the propriety of establishing a Normal School, for the purpose of educating common school teachers.

Mr. King thought the State had no power to appropriate the funds arising under the grant to any other purpose than that of a seminary of learning. He was of opinion that a diversion of the funds to common schools would not only be unconstitutional, but in violation of the grant.

Mr. Owen moved to refer the whole subject to the committee on the judiciary, to inquire into its constitutionality.

Pending the question,

The House adjourned.

AFTERNOON SESSION.

The House met.

Mr. Owen moved a call of the House; which was ordered, and seventy-six members answered to their names.

Mr. Spencer moved that further proceedings under the call be dispensed with; which was agreed to.

The House resumed the consideration of the subject under debate when the House adjourned, viz: to refer the whole subject to the judiciary committee, with instructions to inquire into its constitutionalty.

Mr. Owen thought that this subject should be referred to the judiciary committee, as it had already been before the committee on education, who had reported that it was not only inexpedient to divert these funds, but they believed it would be unconstitutional. If his amendment to Mr. Holman's resolution should be adopted, he said it would be appropriating these funds to common schools in a manner that all would derive a vast amount of benefit. For unless you have good teachers, and those too who are qualified, you never can have an efficient system of common schools.

Mr. McDonald opposed the reference of the subject to the judiciary committee. He thought that this was not the proper time to test the constitutionality of the question. We should wait until we get a bill before us, and then will be the time for testing the constitutional question.

Mr. Suit said that sufficient time had already been spent on this subject, and he therefore hoped the matter would not be referred. He was as well prepared to vote now, as he would be in two weeks hence. He had no earthly doubt about the unconstitutionality of the project of Mr. Holman. He was as friendly to common schools as any other member of the House, yet he thought that the Legislature had no power to divert the funds arising from the grant of Congress for the specific purpose of establishing a "seminary of learning," to the thousands of common schools throughout the State.

Mr. Spencer also opposed the reference. He contended that if it was wrong to divert the University funds to common schools, it was equally wrong to divert the proceeds of the sale of the lot in this city to the University at Bloomington. The lot in this city was granted for by Congress for a certain purpose, and if it can be appropriated to the State University, the University funds can be applied to common schools.

Mr. Owen withdrew his motion to refer the subject to the judiciary committee.

The question then recurred on the amendment of Mr. Owen to the amendment of Mr. Holman; which was not agreed to—ayes 24, noes 57.

Mr. Owen moved to refer the resolution to the judiciary committee; lost—ayes 25, noes 59.

Mr. Smith of Marion moved to strike out so much as relates to the sale of the lot in this city; lost.

The question then recurred on the motion of Mr. Holman, to so amend the resolution of Mr. Owen as to divert the funds arising from the grant made by Congress for an endowment of "a seminary of learning," to the common school fund; which was agreed to, as follows:

AYES—Messrs. Barker, Beach, Beane, Beeson, Brady, Cowgill, Crawford, Cromwell, Donaldson, Donham, Doughty, Douthit, Graham, Hanna, Hart, Hays of White, Henry, Holladay of Parke, Holman, Huey, Humphreys, Leviston, Litchfield, Major, Manson, McAllister, McDonald, McDowell, Miller, Morris, Nelson, Porter, Ray, Reynolds, Shanklin, Smith of Spencer, Spencer, Staton, Stover, Sweet, Taggart, Thompson, Walker, Watson, Williams, Wilson and Withers—47.

NOES—Messrs. Behm, Buskirk, Carpenter, Cockrum, Davis, Dice, Eccles, Foster, Geddes, Gibson, Goudy, Hay of Clark, Helmer, Hicks, Holliday of Blackford, Hostetter, Hudson, Hunt, King, Lewis, Lindsay of Howard, Mayfield, McConnell, Mudget, Owen, Schoonover, Scudder, Smith of Marion, Stanfield, Struble, Suit, Sumner, Wells, and Mr. Speaker—34.

The resolution, as amended, was then agreed to.

House adjourned.

NOTE.—I have been requested to state, that when Mr. Cockrum (in Saturday's proceedings) moved to commit the "bill for the protection of sheep," with instructions, Mr. Stuart did not understand the instructions properly, or he would not have pretended to say that "such is now the law." REPORTER.

SENATE

TUESDAY, Feb. 3, 1852.

Senate met.

Petitions, &c., Presented.

By Mr. Davis, petitions and remonstrances of citizens of Vermillion and Parke counties, on the subject of a drawbridge. Referred to a select committee.

Reports from Committees.

By Mr. Emerson, from the committee on criminal law, returning bill of the House, limiting the number of grand jurors, and pointing out their jurisdiction, with amendments increasing the number of jurors from six, the number proposed by the bill, to fifteen, and giving the jury the jurisdiction it has under the present law.

Mr. Emerson was in favor of abolishing the system, but if it has to be retained, he wished to have the jury composed of the largest number consistent with the public interest, and economy.

Mr. Spann agreed with Mr. Emerson.

Mr. Secrest was in favor of a compromise between the extremes on this question.

Mr. Emerson proposed an amendment, to constitute the grand jury of twelve persons, and require a unanimous concurrence of the jury to find a bill.

Mr. Hester made an eloquent and able argument in favor of entirely abolishing the grand jury system.

Mr. Saffer was in favor of requiring the jury to be formed of twelve persons, but thought that a majority only should be required to find a bill. He also thought the meetings of the grand jury should be public.

Mr. Cravens was also in favor of the number twelve, but was opposed to public sessions. He thought two-thirds should be required to find a bill. He also thought a modification of the present system might be expedient in order to reduce its expenses, but he believed it the duty of the Legislature to look well to the merits of any system to be substituted for it.

Mr. McCarty was opposed to abolishing the system.

Mr. Knowlton urged the propriety of amending or abolishing it.

Mr. Dunn made an able defence of the present system. He was opposed to any change or modification.

Pending the question,

Senate adjourned.

AFTERNOON SESSION.

Senate met.

House bill to district the State, having been made the special order, was taken up.

A call of the Senate was ordered.

Mr. Athon withdrew his motion to recommit with instructions.

The question was then upon the motion of Mr. Mickle to detach Adams county from the Eleventh District and attach it to the Tenth District.

Mr. Goodman moved the previous question; which was not sustained—ayes 15, noes 30.

Mr. Slack moved to strike off Huntington and Wells counties from the Tenth District and add them to the Eleventh.

Mr. Dawson moved to lay the motion on the table; carried—ayes 23, noes 16.

Mr. Cravens moved to strike Monroe from the Third District and attach it to the Ninth.

Mr. Davis moved to lay the motion on the table. Carried—ayes 33, noes 11.

Mr. Mickle asked and obtained leave to withdraw his proposed amendment.

Mr. Athon moved to amend by striking out the bill from the enacting clause, and inserting a substitute constituting the districts similarly to the districting bill which has already passed the Senate.

Mr. Hunt moved to lay the amendment on the table. Carried—ayes 25, noes 21.

Mr. Emerson moved to detach Switzerland county from the Third and attach it to the Fourth District.

Mr. Knowlton moved to lay the motion on the table. Carried—ayes 27, noes 19.

Mr. Hester moved to strike Monroe county from the Third District and attach it to the Sixth.

Mr. McCarty moved to amend the amendment by striking Shelby and Johnson counties from the Sixth District and attaching Hamilton and Madison counties to it.

Mr. McCarty said he had voted for nearly all the Democratic candidates who had been before the Legislature this winter, and as he thought one good turn deserved another, he hoped the Democrats would vote for his amendment, and then if he did not go to Congress himself, he could help to select a man who would go. If his amendment was adopted, the Democrats might fix the other districts to suit themselves, and he would vote for them all.

Mr. McCarty's amendment was laid on the table.

Mr. Hester's amendment was also laid on the table—ayes 26, noes 20.

Mr. Berry moved to amend by detaching Adams from the Eleventh District and attaching it to the Tenth; and detaching Switzerland from the Third District and attaching it to the Fourth.

Laid on the table—ayes 24, noes 22.

Mr. Mickle moved to attach Adams county to the Tenth District.

Laid on the table—ayes 28, noes 18.

Mr. Slack moved to detach Wabash county from the Eleventh District and attach it to the Tenth.

Mr. Hunt moved the previous question; which was not seconded—ayes 23, noes 22.

Mr. Slack's amendment was laid on the table—ayes 26, noes 18.

Mr. Defrees moved to amend by striking the counties of Elkhart and Kosciusko from the Tenth and adding them to the Ninth District. Lost.

Mr. Dunn moved to amend by adding Lawrence and Martin counties to the second District, and Clark and Scott to the Third District.

Laid on the table—ayes 24, noes 22.

Mr. Dunn moved to lay the bill on the table. Lost—ayes 18, noes 29.

Mr. Dawson moved the previous question; which was sustained—ayes 28, noes 18.

The main question was then ordered to be put, which was on ordering the bill to a third reading on to-morrow, and decided in the affirmative—ayes 27, noes 20.

Senate adjourned.

HOUSE OF REPRESENTATIVES.

TUESDAY, Feb. 3, 1852.

The House met.

The Speaker laid before the House a communication from the State Bank, relative to the amount loaned to stockholders and to others not stockholders.

Petitions, &c., were presented by Messrs. Lindsay of Howard, Hays of White, Davis of Franklin, and Hay of Clark.

Reports from Committees.

By Mr. Stanfield, from the committee on the judiciary, against allowing county commissioners the power to prevent animals from running at large.

Mr. McDonald moved to lay the report on the table; which was agreed to.

By Mr. Stover, from the committee on corporations, a bill to provide for the incorporation of towns; read the first time.

Resolutions introduced.

By Mr. Spencer, that the Rev. J. Mitchel, Agent for the American Colonization Society, be respectfully requested to furnish to this House at its earliest convenience, answers to the following questions, viz:

1. Should the State of Indiana determine to establish a settlement on the coast of Africa, for the accommodation of her colored people, where will be the best point?

2. What will be the probable cost of procuring an extent of territory sufficient for this purpose, what its location, health, fertility, natural productions, and inducements for such a settlement?

3. What is the character of the soil of Liberia, nature of the climate, character of its inhabitants and government?

4. What are the inducements for sending our colored population to Liberia?

5. How much does it cost to transport emigrants to Liberia, each?

6. What is the number of colored persons in Indiana at this time, and what proportion of them could probably be induced to emigrate to the land of their fathers?

And to furnish any other information pertinent to the subject in his possession.

Mr. Spencer spoke at some length in favor of the passage of the resolution.

Mr. McDonald opposed the passage of the resolution. He thought the Legislature should not go farther than is required by the Constitution. When we have gone thus far, we have done sufficient in violation of the true principles of liberty.

Mr. King favored the adoption of the resolution. He thought that the oath he had taken, required of him to use his efforts to procure some means for the colonization of the negroes who were in the State at the time of the adoption of the Constitution.

Mr. Owen was not only in favor of the adoption of the resolution, but hoped to see an appropriation made each year for colonizing the negroes in this State, who may desire to emigrate to Liberia.

Mr. Torbet said that this resolution was one merely calling for information, and if he was opposed to colonization he should vote for the adoption of this resolution. He was ready to vote a tax on the people of the State for the purpose of colonizing the negroes. Every man who voted for the exclusion clause, voted at the same time for colonizing those who are amongst us. He thought that the people had not only sanctioned a liberal appropriation for colonization, but had dictated it by their votes, and every member was bound to obey their dictates.

The resolution was adopted.

Bills Introduced.

By Mr. Buskirk, a bill to regulate and limit the expenses of the several benevolent institutions of the State. Read the first time.

By Mr. Behm, a bill to regulate the time for holding the Circuit Courts in the county of Tippecanoe. Read the first time.

By Mr. Stuart, a bill to authorize suits against the State. Read the first time.

By Mr. Suit, a bill to establish Courts of Common Pleas, and defining the duties and compensation of the officers thereof. Read the first time.

Bills on their Third Reading.

A bill providing for the organization of county boards and defining their duties and jurisdiction.

Mr. Holman moved to recommit the bill to the committee on the organization of courts, with instructions to strike out the section authorizing the commissioners to appoint two students to attend the State University.

Mr. Carpenter moved to amend the instructions so as also to strike out the section authorizing the commissioners to allow extra charges to the sheriffs and clerks; which was agreed to.

The instructions, as amended, were then agreed to.

Mr. Stuart moved that when this House adjourn it adjourn until to-morrow morning at 9 o'clock.

Mr. S. remarked that the committee on the organization of courts required time in order to do the business now before it. As the orders of the day were through, nothing of any consequence, he said, could be done in the House, and members could be very profitably employed in the different committee rooms. One day last week he had made of the House a similar request which resulted in the bill which has just been under consideration. If the House again will adjourn over, another bill will probably be reported to-morrow.

The motion was concurred in, and

The House adjourned until to-morrow morning at 9 o'clock.

Brown County.

At a meeting of the Democracy of Brown county, held at the court house in Nashville, on the 31st day of January, 1852, for the purpose of appointing delegates to attend the State convention to be held at Indianapolis on the 24th of February next; the following are the proceedings, to-wit:

On motion,

The meeting was organized by calling Shadrach Chandler, Esq., to the chair, and appointing Lewis Prosser, Secretary.

On motion,

The following resolutions were unanimously adopted:

Resolved, That the Democrats of Brown county hold to the old National Democratic principles, and repudiate all sectional tests as injurious and disorganizing in their tendencies.

Resolved, That we are in favor of the so called compromise measures of the last Congress, and especially the Fugitive Slave law, and are in favor of the Democratic party at their State convention, in February next, to fully endorse said measures, as a final adjustment of the many difficulties growing out of the Slavery question.

Resolved, That the delegates to the State convention to be held at Indianapolis on the 24th of February next, be instructed to go against the nomination of any man for any office, who is tinctured with Freesoilism or Abolitionism; and that they use their best endeavors to put in nomination for all the offices, Democrats of the Jefferson school.

Resolved, That we approve of the doctrines advocated by the Indiana State Sentinel on the compromise measures.

Resolved, That we have the utmost confidence in the principles of the Democratic party, and that their success is necessary to the welfare and perpetuity of this glorious Union.

Resolved, That we are in favor of the independence of Hungary, and the doctrines advocated by Kossuth in his public speeches.

On motion,

The chair appointed a committee of five to select delegates to attend the State convention, whereupon the committee reported the following gentlemen as delegates:

Lewis Prosser, Shadrach Chandler, Sylvannus Manville, T. M. Adams, W. M. Mason, John Kelly, L. J. Tull, W. S. Hotchkiss, J. P. Wright, W. S. Roberts, Wm. Taggart, C. Hamblen, Jonathan Watson, J. W. McIlvain, Preston Goforth, Dr. Demaree, George Bergen, John Neidigh, A. S. Anderson, John Richards, James Arwine, George Butcher, D. D. Weddel, S. L. Lucas, S. J. Kinsey, J. A. McKinney, Jacob Lawless, and C. Hurley, which report was concurred in.

Resolved, That the Editor of the State Sentinel be requested to publish the proceedings of this meeting.

SHADRACH CHANDLER, *President*.

LEWIS PROSSER, *Sec'ty*.

☞ One-third of the population of the United States, as shown by the census, reside in cities and towns of which there are not less than sixty-five which contain 10,000 inhabitants.

Decisions of the Supreme Court of Indiana.

NOVEMBER TERM, 1851.

REPORTED FOR THE STATE SENTINEL BY L. BOLLMAN.

[As the subject of the following decison has attracted much attention, and both the Judges and the Bar are desirous of seeing the reasons given, the decison is published in full. It was made by Judge Perkins.—REPORTER.]

The State vs. Barbee. Error to the Marion Circuit Court.

This is an indictment found at the December term, 1851, of the Marion circuit court against Sampson Bar