

JOURNAL

OF THE

HOUSE OF REPRESENTATIVES

OF THE

FIRST LEGISLATIVE ASSEMBLY

OF THE

TERRITORY OF IOWA,

BEGUN AND HELD AT THE CITY OF BURLINGTON, ON THE TWELFTH DAY OF
NOVEMBER, ONE THOUSAND EIGHT HUNDRED AND THIRTY-EIGHT.

BURLINGTON:

CLARKE & M'KENNY, PRINTERS.

1838.

1881

1881

HOUSE OF REPRESENTATIVES

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REPORT OF THE COMMISSIONERS

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WASHINGTON

CHARLES C. WHITNEY, PRINTER

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FIRST LEGISLATIVE ASSEMBLY OF IOWA TERRITORY:

Begun and held at the city of Burlington, in the county of Des Moines, on Monday, the twelfth day of November, in the year of our Lord one thousand eight hundred and thirty-eight; being the first session of the Legislative Assembly convened under, and by virtue of, an act of the Congress of the United States, approved the twelfth day of June, 1838, and entitled "An act to divide the Territory of Wisconsin, and establish the Territorial government of Iowa." On which day, being that appointed by the Governor of said Territory of Iowa for the meeting of the Legislative Assembly, the House was called to order; and

On motion of Mr. Frierson,
ANDREW BANKSON was chosen Speaker of the House, pro tem.

On motion,
CHARLES WESTON was appointed Secretary of the House, pro tem.

On motion of Mr. Frierson,
Resolved, That a committee of two be appointed to wait upon the Council and inform that body of the organization of the House. Whereupon, the chair appointed John Frierson and James W. Grimes said committee.

Mr. Frierson, from the above committee, reported the following resolution:

Resolved, That a committee of two be appointed, in conjunction with a similar committee to be appointed on the part of the Council, to wait upon his Excellency the Governor of the Territory, and inform him that the members of the two houses of the Legislative Assembly are now convened and in organization pro tempore, ready to be sworn into office, and ready to receive any communication that he may have to make to them.

Whereupon, the chair appointed W. H. Wallace and Thomas Cox said committee.

The committee having performed the duty assigned to them, reported that they had waited upon his Excellency, and that he

would presently attend in person to swear in the members. and pronounce his message to both houses.

On motion of Mr. Cox,

Resolved, That a committee of two be appointed to wait upon the members of the Council, and invite them to take seats in the hall of the House of Representatives, to be sworn into office and to hear the message of his Excellency.

Whereupon, Messrs. Hastings and Nowlin were appointed said committee.

His Excellency the Governor being introduced, and having administered the requisite oath to the members present, (the Council having met the House in the Representative hall,) delivered the following message:

GENTLEMEN OF THE COUNCIL AND HOUSE OF

REPRESENTATIVES, OF THE LEGISLATIVE ASSEMBLY:

Through the intervention of Divine Providence, we have been permitted to convene at this time, for the purpose of organizing the first Legislative Assembly, under the provisions of an act of Congress, passed the 12th day of June, A. D. 1838, entitled "An act to divide the Territory of Wisconsin, and to establish the Territorial Government of Iowa."

This act must be viewed by us, as the constitutional charter of the Territory; it prescribes our powers, defines our duties, directs our actions and points out our rights and privileges. It declares that the Legislative power shall be vested in the Governor and a Legislative Assembly, and shall extend to all rightful subjects of legislation. This declaration brings within the power of the Legislature all subjects that relate to the organization of the local government of the Territory, (that does not contravene the act of Congress, or the Constitution of the United States;) all subjects that relate to the protection and preservation of the lives, liberties, property, and the reputation of the people of the Territory; the punishment of crimes, misdemeanors, and immoral practices, and such other subjects as tend to the advancement of the public good, the general improvement of the country, and the promotion of the peace, happiness, and prosperity of the people.

This important trust has been reposed in us by our country, and we have taken the most solemn obligations faithfully and impartially to perform the same. When we consider that the eyes of the people of the United States are upon us—that they have an interest in this Territory and feel an anxious solicitude for its prosperity, (which must either be advanced or retarded by our acts,) and view the immense importance of laying a good foundation of jurisprudence, and preparing a system of laws wisely adapted to our situation and interest, and reflect that the convenience, prosperity and happiness of the people are intimately connected with the local organization of the Territory, in all its various ramifications, we are impressed with a sense of the weight of responsibility imposed upon us, and are led to ask aid from that Providence who has hitherto sustained us; whom we view as the Governor of the Uni-

verse, the Author of all good, and the Fountain of every blessing, and sincerely implore his protecting care over us, and pray that he may inspire us, as well as all who may succeed us in authority, with wisdom to perceive, judgement to determine, and energy to execute such measures as will advance to the greatest degree of prosperity, the physical, political, intellectual, and moral condition of this pleasant land and interesting Territory.

Gentlemen,—having called you together at this time for the purpose of aiding by your deliberations, in perfecting the local organization of the Government of this Territory, it becomes my duty to present to your consideration such subjects as are deemed most essential to the accomplishment of that object, and to recommend such a course of proceedings as are deemed most advisable under existing circumstances.

The laws of Wisconsin are declared to be in force in this Territory, so far as they are not incompatible with the organic law.—But when we consider their incompatibility in many respects with that law, and the confusion into which they are thrown by being blended with the laws of Michigan, which are incompatible and conflicting in many points, we are satisfied that our Territory can derive no benefit from them, and that our most advisable course of action will be, to proceed to organize the local Government of the Territory in conformity to the organic law, and to adapt all our laws to suit the situation and interests of the Territory, without reference to the laws of either Wisconsin or Michigan.

Under this impression, I will call your attention in an especial manner to various subjects, deemed indispensable to the local organization of the Government under the organic law.

These are the subjects which I deem indispensable to the local organization of the Government.
The subject of providing by law for the organization of townships, the election of township officers, and defining their powers and duties, I consider to be of the first importance and almost indispensable in the local organization of the Government. Without proper township regulations it will be extremely difficult, if not impracticable, to establish a regular school system. In most of the States where a common school system has been established by law, the trustees of townships are important agents in executing the provisions of the laws. To them are entrusted the care and superintendence of the school lands of their respective townships, the division of townships into school districts, and various other duties relating to building school houses, the organization of school districts, and the support of schools in their respective townships.

The 12th section of the act of Congress, establishing our Territory, declares "That the citizens of Iowa shall enjoy all the rights, privileges, and immunities heretofore granted and secured to the Territory of Wisconsin and its inhabitants." This extends to us all the rights, privileges, and immunities specified in the ordinance of Congress of the 13th of July, 1787.

The third article of this ordinance declares, "That religion, morality, and *knowledge* being necessary to good government and the happiness of mankind, *schools* and the means of education shall forever be encouraged." Congress, to carry out this declaration,

ration, have granted one section of land in each township to the inhabitants of such township for the purpose of schools therein.

There is no subject to which I wish to call your attention more emphatically, than the subject of establishing, at the commencement of our political existence, a well digested system of common schools; and as a preparatory step towards effecting that important object, as well as the consideration of numerous other advantages that must flow from the measure, I urge upon your consideration the necessity of providing by law for the organization of townships.

The seventh section of the act of Congress organizing our territory declares, that all county officers, except judicial officers, justices of the peace, sheriffs and clerks of courts, shall be elected by the people; and in the 16th section it is declared, that all justices of the peace, constables, sheriffs, and *all other executive judicial officers* who were in office on the 3d of July last, should be authorized and required to continue to exercise and perform the duties of their respective offices as officers of the Territory of Iowa, *temporarily*, and until they or others should be duly appointed to fill their places in the Territorial government of Iowa; with a proviso, that no officer should hold or continue in office by virtue of that provision over twelve months from the said 3d day of July.

By the foregoing provision in the 7th section it will be perceived that all officers that partake of the character of county officers, except judicial officers, justices of the peace, sheriffs and clerks of courts, are to be elected by the people. The proviso in the 16th section declares, that officers shall hold their office temporarily; and after enumerating justices of the peace, constables and sheriffs, uses the general term, *all other executive judicial officers*. From an examination of the sections above stated, it will be perceived that there are doubts as to the rights of certain officers to act under former appointments after the 3d of July. To remove these doubts and to secure the election of other officers by the people, that have heretofore been appointed by the Executive and Council, I would recommend a revision of all laws that relate to the organization of counties, and the appointment of county officers, so as to comply strictly with the organic law of Congress. I would also recommend a revision of all laws that relate to the powers and duties of executors, administrators and guardians, as well as the laws relating to the levying and collecting of county and territorial taxes.

The ninth section of the organic law declares, that "the judicial power of the Territory shall be vested in a supreme court, district courts, probate courts, and in justices of the peace; and that the jurisdiction of these several courts, both appellate and original, and those of the probate courts and of the justices of the peace, shall be as limited by law," with a prohibitory provision excluding from the jurisdiction of justices of the peace controversies where the title or boundary of land may be in dispute, or where the debt or sum claimed exceeds fifty dollars.

This is the most important subject that will be presented to your consideration, and will require much deliberation in arranging the

different courts, and in assigning to each their appropriate powers and duties. Justices courts are the first in order, and in them the people are more generally interested than the higher courts. Justices of the peace by virtue of their office are conservators of the peace, arbiters in matters of controversy to the amount of fifty dollars, and are the collecting officers of debts to this amount; they are the legitimate guardians of the public peace and the rights of individuals. It will therefore become an important duty (and one that will require much deliberation in its performance) to arrange the details of an act defining specifically the powers, and regulating the duties of justices of the peace and constables, in civil as well as criminal cases. The importance of this subject will demand your early attention and deliberate consideration. The duties of probate courts, tho' less complicated, are of great interest to the community, and will also require much care and attention in arranging the provisions of an act, prescribing the powers and defining the duties of these courts. A revision of former laws on this subject is deemed indispensable in arranging systematically the judicial organization of the Territory.

The subject of organizing the judicial courts of the Territory, prescribing their powers, defining their duties and regulating their practice, is one of the greatest magnitude. It embraces an entire system of jurisprudence, and in its various ramifications extends its influence to every department of government and class of community.

In laying the foundation of a system of jurisprudence in the Territory, would it not be advisable to unite our exertions in simplifying not only our laws, but the rules of practice and proceedings in the various courts of justice within the Territory, and to exclude therefrom as much as practicable, every thing of a fictitious or ambiguous character? In my opinion the proceedings in our courts of justice should be concise, void of technical fiction, and always directed to the merits of the cause in controversy. The establishment of such a rule of practice at the commencement of our Territorial government, I am satisfied, would be attended with the most beneficial effects. I therefore earnestly submit these suggestions to the consideration of the Legislative Assembly.

In arranging our judicial system, it will become necessary to revise the laws regulating the duties and defining the powers of sheriffs, constables, and other ministerial officers; also, the laws regulating judgments and executions; but in the consideration of these laws, I trust that the odious principle of imprisonment for debt, either on mesne or final process, (except in cases of evident intended fraud) will not be permitted to enter into your deliberations, and that that relic of the barbarous ages that has been permitted to remain as a blot on the laws of some of the states, will never be permitted to soil the pages of the statutes of Iowa.

I would also recommend to your consideration the propriety of adopting a general road system, defining the manner of laying out and establishing Territorial and County roads, and to provide for opening and keeping them in repair; and also, the revision of the

laws regulating elections, so as to conform in all respects to the act of Congress organizing the Territory.

The compilation of a criminal code, so as to graduate properly the various crimes and offences, and to apply suitable punishment to each, in proportion to their enormity, is a subject of deep interest to the community. It is one which of late has occupied the attention of some of the greatest statesmen and philanthropists of the age; and the general conclusion has been, that sanguinary punishments do not tend to lessen crime, and that the general policy of all criminal laws should be to prevent crimes, rather than to inflict punishment, and that all punishment should be inflicted with a view to reform, rather than extirminate the criminal. In these conclusions I heartily concur, and would wish to see confinement at hard labor, for life, substituted in all cases, in lieu of capital punishment, when suitable prisons for the purpose can be had; but in our present situation we will necessarily be compelled to adopt more sanguinary punishments than would be advisable had we a suitable penitentiary in the Territory. But, being sensible of the deleterious effects of public executions, I would recommend to your consideration the propriety of providing by law, for executing capital punishment (should such punishment be necessary) privately, in the county prison, in the presence of the sheriff, and such other persons as the court passing sentence might direct.

In preparing a system of criminal jurisprudence, the whole catalogue of vices, from the highest crime to petty misdemeanors, pass in review, that appropriate punishment may be attached to each offence, in proportion to its injurious effects upon society; and we frequently see the most disastrous consequences proceed from practices, that in some places are considered as only fashionable vices—namely: *gambling and intemperance*.

These two vices may be considered the fountains from which almost every other crime proceeds, as the statistical reports of many of the penitentiaries conclusively show. They have produced more murders, robberies, and individual distress, than all other crimes put together: this is evident, when we consider the many thousands that annually destroy themselves, and bring their families to beggary and wretchedness, by pursuing these vices; for surely there can be no murder of a deeper moral dye than self murder; and no robbery of a more heinous character, than the robbery of our own families. Could you in your wisdom devise ways and means to check the progress of gambling and intemperance in this Territory, you will perform an act that would immortalize your names and entitle you to the gratitude of posterity.

The recent transaction in this city, that deprived the Legislative Assembly of one of its members elect, as well as all other transactions of a similar character, should meet with the indignant frown of every friend of morality and good order in community; and the practice of wearing concealed about the person, dirks, pistols, and other deadly weapons, should not only be considered disreputable, but criminal, and punished accordingly. There certainly cannot be a justifiable excuse offered for such a practice; for

in a civil community, a brave man never anticipates danger, and an honest man will always look to the laws for protection.

It has been frequently said, "that to be prepared for war, is the most effectual way to secure peace." This declaration may be emphatically applied to our present situation.

The numerous hordes of warlike Indians occupying our northern and western boundaries and the restless disposition manifested by some of them, should admonish us to be prepared to defend the Territory against attacks from any quarter, under any circumstances and on all emergencies.

Should the Indians be disposed to hostilities, our frontier from St. Peters to Missouri, would be exposed, and from the position of the United States troops, we need expect but little or no assistance from them; thus situated, it becomes our duty to prepare to defend ourselves against any possible attack from our Indian neighbors.

This preparation can only be effected by efficiently organizing and disciplining the Militia of the Territory. I am fully satisfied that were the Militia of the Territory properly organized, equipped and disciplined, that we could defend ourselves against any Indian force that could be brought against us. I therefore call the attention of the Legislative Assembly in an especial manner to this subject, and request that they may pass a law giving to the Militia of the Territory a perfect organization, so as to render them a prompt and efficient defence.

In arranging the details of a Militia law, it should be explicit—1st, in its organization; 2d, in the distribution of powers and duties to the officers and privates—3d, the fines and penalties imposed, and the punishments to be inflicted for neglect of duty; vesting in the different grades of officers certain discretionary powers, and holding them strictly accountable for an abuse of them.

I would recommend that the Territory at first, be divided into three divisions, six brigades, and twelve regiments—and that you provide by law, for raising and organizing one company of Artillery in each division, and one company of Rangers to each Regiment, to be mounted and armed with rifles, rifle pistols, and short swords. These Rangers would be most efficient against an Indian force, were they armed with Hall's carbines, a brace of rifle pistols with holsters and cartridge boxes, containing cartridges, suited to the bore of the pistols; and when dismounted to have the pistols in a belt, and a short sword. This sword to be most formidable in Indian fighting should be a short blade about 18 inches in length, strong and double edged, to be used as occasion might require, either to cut away the brush, vines or other obstacles in pursuing the Indians into their hammocks or places of retreat, or as a weapon of defence in close combat with an enemy.

I am satisfied that troops thus organized, equipped and disciplined, expressly for Indian fighting, WITH STRICT DIRECTIONS NEVER TO THROW AWAY A FIRE, nor to halt in the pursuit, first using their rifles, then their pistols, and as the last resort their swords, would be more than an equal match for an equal number of the most efficient Indian warriors that ever assembled upon our frontier.

In view of our present situation I would recommend to your consideration the propriety of memorializing Congress, to provide us with three six pound brass pieces of cannon, with carriages and equipments complete, and one thousand Hall's Carbines, with two thousand rifle pistols with holsters and cartridge boxes complete, and one thousand short swords, with scabbards and belts; and that government would establish a *depot* of arms and ammunition, at some suitable place within the Territory.

It becomes our duty to provide by law for dividing the Territory into three judicial districts, to assign to each judge his appropriate district, and to define the time and place of holding district courts in each of the respective counties within the Territory.

When we take into consideration the local excitements that frequently arise in neighborhoods, on the subject of division of counties, the alteration of county lines, and the location of county seats, I am satisfied that much benefit would result to the community, were the whole of the surveyed part of the Territory laid out into counties of a uniform size, and so bounded as to preclude any subsequent subdivision, or alteration of the boundaries; and the seats of justice established in each (where such seats of justice have not already been established by law) by disinterested commissioners to be appointed for the purpose.

A general law on this subject well arranged in its details, could not fail in a great measure, to prevent those local excitements that too frequently disturb the harmony of neighborhoods, and retard the general improvement and prosperity of the country. I therefore solicit your attention to this subject, and hope that a general law may be passed the present session in accordance with the foregoing suggestions.

It also becomes our duty to provide by law for taking the census of the Territory at certain periods, and to apportion the members of the Council and House of Representatives among the several counties and districts, in proportion to the population, as well as to fix by law, the time of the regular annual meeting of the Legislative Assembly. This subject will require your early attention.

The 13th section of the organic law or constitutional charter of the Territory, declares—"that the Legislative Assembly of the Territory shall hold its first session at such time and place in the Territory, as the Governor shall appoint and direct, and at said session, or as soon thereafter as may by them be deemed expedient, the said Governor and Legislative Assembly shall proceed to establish the seat of Government for said territory, at such place as they may deem eligible; which place, however, shall thereafter be subject to be changed by the said Governor and Legislative Assembly."

And the sum of twenty thousand dollars is granted to be applied by the Governor and Legislative Assembly, to defray the expenses of erecting public buildings at the seat of Government.

This subject has excited to a considerable degree, conflicting interests and local feelings, in various parts of the Territory. But I can perceive no good reason for such conflicting interests. In set-

thing this question every interest of a local or private character should be excluded from our deliberations.

It is a question purely of public concern. The United States are the proprietors *in fee* of all the land in the Territory, to which the Indian title has been extinguished. Every part of the Territory is equally susceptible of a dense population; and in granting the appropriation to be applied in erecting public buildings at the seat of Government, Congress had reason to expect the expenditure to be made at a point, that would advance to the greatest degree, both the present and future prosperity of the Territory.

I am convinced that there is no way in which we can discharge the duty imposed upon us by this section, satisfactorily to the community at large, or, to promote the general interest of the Territory so well, as to provide by law for the appointment of three disinterested men, of known integrity and weight of character, and to vest them with authority to take the subject into consideration, and to fix upon a place for the seat of Government of the Territory; and their report being returned to the Secretary of the Territory, that such report shall be considered conclusive, and the public buildings erected at the place provided for in such report.

I am clearly of the opinion that the foregoing is the only method by which the seat of Government of the Territory can be satisfactorily established. By this method, the interest of every part of the Territory will be consulted, and strict justice administered to the whole; and with this impression, I urge it upon your consideration, and solicit a calm and impartial investigation of the same.

Gentlemen, the foregoing suggestions embrace such acts as are deemed indispensable to the organization of the Territory. There are doubtless many other subjects of a more local character, that will present themselves to your consideration.

The compilation and enactment of a complete code of laws, particularly adapted to our situation and interest, would require more time and deliberation than is allotted to the Legislative Assembly during its session. And, indeed, experience has taught us, that it is impracticable to digest, report, and enact a complete code of laws during the session of a Legislative body.

I would therefore suggest for your consideration, as a subject of the greatest importance to the future prosperity of the Territory, the appointment of a committee not to exceed three persons, of known legal experience and weight of character, to digest and prepare a complete code of laws during the recess of the Legislature, and to report them for consideration and enactment at the ensuing session. By pursuing this method, in the course of two years we will be released from the ambiguity of existing laws, and our system of jurisprudence will be established upon a firm foundation, peculiarly adapted to the situation, interests, habits, and wants of our citizens.

When we consider the general liberality of the present government heretofore manifested towards her minor children, we may reasonably anticipate that the same liberality will be extended to her youngest daughter, Iowa. I therefore suggest the expediency

of respectfully memorializing Congress to grant to the Territory an appropriation sufficient to erect a Penitentiary in the Territory, for the confinement of convicts that may be sentenced for a violation of the penal laws of the Territory, as well as those who may be convicted for a violation of the laws of the United States. Also respectfully to ask an appropriation of land for literary purposes, equal to the grant made last session to the Territory of Wisconsin.

An appropriation of five thousand dollars was made by Congress to be expended, under the direction of the Governor, in the purchase of a library for the Territory. Previous to leaving Ohio, in June last, (with the assistance of several literary friends,) I made out a catalogue of such standard works as are deemed most important as the foundation of a public library, and put the catalogue into the hands of an agent in Cincinnati to make the purchase for me. Those books that could be procured in the western country, have been purchased and have been at Cincinnati for some time, waiting to be forwarded the first rise of water in the Ohio river. By advices from Cincinnati I learn that the agent has been for some time in the eastern cities, where he will complete the purchases to the extent of the appropriation. As soon as the Ohio river is navigable, we may expect the arrival of those books that have been purchased, and the remainder of the library as soon thereafter as practicable.

When engaged in purchasing maps for the Territory in Cincinnati, in July last, Dr. O. Fairchild, of said city, presented me with a valuable set of maps, which are now in my possession, and which I present as a present from him to the library of the Territory.

As the library is expected in a short time, I would suggest the propriety of passing a law to provide for the appointment of a librarian, to define his duties, and to regulate the library. As soon as the library arrives a catalogue of the books shall be immediately laid before you.

On the 1st of September last, Dr. James Davis was appointed a Commissioner under the provisions of an act of Congress passed the 18th of June 1838, entitled "An act to authorize the President of the United States to cause the southern boundary line of the Territory of Iowa to be ascertained and marked"—who proceeded soon after his appointment in conjunction with A. M. Lea Esq., the Commissioner on the part of the United States, to the discharge of the duty assigned them, but has not yet reported their progress to this department. Should a report be received during the session of the Legislative Assembly it shall be immediately communicated to you. The Governor of Missouri did not consider himself authorized to appoint a Commissioner under the late act of Congress until after the meeting of the Legislature of that State.

The appropriation made by Congress for the support of the government of the Territory of Iowa for the year 1838, is \$24,675. This includes the salaries of the Governor, Secretary, Chief Judge, Associate Judges, District Attorney and Marshal—the pay and mileage of the Members of the Legislative Assembly of the

Territory and the expenses thereof; printing the laws, taking the census, and other incidental and contingent expenses of the Assembly and Territory. (See late laws of the U. S., page 112.)

The salaries of the officers of the Territory as fixed by law, and the contingent fund of the Governor, amount to 8,950 dollars—which leaves a balance of 15,725 dollars to defray the expenses of the Legislative Assembly—printing, stationery, fuel, house rent and all other incidental expenses of the Territory.

In disbursing the appropriation, we should avoid parsimony in its application to defray necessary expenses; but at the same time should use *strict economy*, and be careful in our expenditures never to exceed the appropriation made by Congress.

Gentlemen of the Council, the act of Congress establishing the Territorial government of Iowa vests in the Executive and Council the power of appointing all judicial officers—Justices of the peace, Sheriffs and Militia officers (except those of the staff) and other civil officers that are not elective by the people. The Executive is vested with the nominating and the Council with confirmative power. The power of appointing to office is one of the most delicate and responsible character; and as the concurrence of the Executive and Council are required to give validity to appointments under the Territorial authority, I deem it my duty to state to you distinctly in the commencement of our political organization the principles by which I shall be governed in nominating individuals for the various offices in the Territory.

I shall at all times pay a due respect to recommendations; but cannot conscientiously nominate to office any individual of *bad moral character*, or, that may be addicted to *intemperance* or *gambling*, if known to me. These vices are so contaminating in their character, that all public officers in my opinion should be clear of even a suspicion of being addicted to them.

Gentlemen of the Legislative Assembly, the charter of our Territorial government declares that the Legislative power shall be vested in the Governor and Legislative Assembly. The Executive is vested with advisory and restraining powers, and the Legislative Assembly with deliberative and enacting powers. The concurrence of both the Executive and Legislative departments becomes necessary under our organization to give validity to Legislative enactments.

This being the case, I have in discharge of a conscientious duty promptly recommended to your consideration such measures as I deemed to be most expedient, and think it proper to state to you at the commencement of our Legislative proceedings, that I shall at all times take pleasure in concurring with you in acts that tend to advance the general interests of the Territory, and the prosperity of the people;—but at the same time will be compelled to withhold my assent to such acts, or proceedings, as I may conscientiously for the time being believe to be prejudicial to the public good.

That the spirit of wisdom and harmony may control all our deliberations and direct our efforts to the promotion of the general prosperity of the Territory—the establishment of good order, and

the security of the peace, prosperity, and happiness of the people
—is the sincere prayer of your fellow citizen and obedient servant,
ROBERT LUCAS.

Iowa Territory, Burlington, Nov. 12, 1838.

The Speaker pro. tem. then proceeded to call over the names of the members of the House, declared by the proclamation of the Governor to be duly elected to the House of Representatives, viz:

William Patterson, Hawkins Taylor, Calvin J. Price and James Brierly, from the county of Lee.

James Hall, Gideon S. Bailey and Samuel Parker, from the county of Van Buren.

William G. Coop, William H. Wallace and A. B. Porter from the county of Henry.

James W. Grimes, George Temple, Van B. Delashmutt, Thomas Blair and Cyrus S. Jacobs, from the county of Des Moines.

John Frierson, William L. Toole, Levi Thornton and S. C. Hastings, from the counties of Muscatine, Louisa and Slaughter.

Robert G. Roberts, from the counties of Cedar, Jones, Linn and Johnson.

Laurel Summers and Samuel R. Murry, from the counties of Scott and Clinton.

Chauncey Swan, Andrew Bankson, Thomas Cox and Hardin Nowlin, from the counties of Jackson, Du Buque and Clayton.

The following members answered to their names, viz:

Messrs. Bankson, Bailey, Brierly, Coop, Cox, Delashmutt, Frierson, Grimes, Hall, Hastings, Nowlin, Patterson, Porter, Price, Summers, Swan, Taylor, Temple, Thornton, Toole and Wallace.

On motion of Mr. Frierson,

Resolved, That a committee of three be appointed to draft rules for the government of the House, and that they be instructed to report the same to this House to-morrow.

Whereupon Messrs. Frierson, Nowlin and Wallace were appointed said committee.

On motion,

The House adjourned until to-morrow at 10 o'clock, A. M.

Tuesday, November 13, 1838.

The House met at 10 o'clock.

Mr. Frierson from the committee appointed to draft rules for the government of the House, asked leave for an extension of time, which was granted.

On motion of Mr. Nowlin,

The House proceeded to the election of Speaker, Messrs. Now-

lin and Porter acting as tellers. The members then proceeded to ballot, which resulted as follows:

For Willian H. Wallace,	11	votes.
“ John Frierson,	4	“
“ Thomas Cox,	2	“
“ Andrew Bankson,	1	“
“ James W. Grimes,	1	“
Blank,	1	

Mr. Wallace, having received a majority of the whole number of votes, was declared to be duly elected Speaker, and was conducted to the chair by Messrs. Nowlin and Grimes, when he returned his thanks in the following manner:

GENTLEMEN—Permit me to return you my thanks, for the distinguished honor you have been pleased to confer upon me. It is peculiarly gratifying, particularly so, to one whose age and experience are no greater than my own, to be selected to preside over the chosen of a free and intelligent people. To be honored with the privilege of being associated with the members of this body, was the summit of my expectations and ambition; then how much more deeply must I feel the sense of obligation, under which your kindness has placed me. It is but just that I should inform you now, that I will probable be driven to the necessity of drawing largely upon your patience and forbearance; and will be happy at all times, to avail myself of the greater experience, superior abilities, and better judgment of those with whom it is my pride to be associated. It is with pleasure that I see around me indications of a disposition on the part of all, to aid and co-operate freely and harmoniously, in all things having a tendency to advance the interest and prosperity, of our newly adopted country. I will meet the task before me, gentlemen, with the little firmness and ability I possess, trusting that no dissensions, no personal feelings nor party strife, will be engendered here, or suffered to come within these walls, to mar the good fellowship and order, upon which depends a speedy and useful discharge of our duties to our constituents.

Once more, gentlemen, I tender you my thanks, with the assurance that the duties of the chair shall be discharged, as far as my abilities will permit, faithfully and impartially.

On motion of Mr. Summers,

The House proceeded to the election of Chief Clerk. Mr. Nowlin nominated Joseph T. Fales; Mr. Temple, Henry W. Moore; and Mr. Frierson, Jonathan E. Fletcher. Messrs. Toole and Taylor were appointed tellers.

The following is the result of the balloting:

Joseph T. Fales.	14	votes,
Henry W. Moore,	4	“
Jonathan E. Fletcher,	3	“

Mr. Fales was declared to be duly elected, who came forward and was qualified.

On motion of Mr. Cox,
The House adjourned till 2 o'clock, P. M.

2 O'CLOCK, P. M.

The House met pursuant to adjournment.

The Secretary of the Council was introduced, and informed the House, that the Council had adopted the following resolution, in which they asked the concurrence of this House.

Resolved, That a committee of three be appointed to act in conjunction with a similar committee of the House of Representatives, in framing the necessary rules for the government of the intercourse between the two Houses, and that the Secretary inform the House of Representatives of the same.

Messrs. Clarke, Hepner and Keith, were appointed the committee on the part of the Council.

Mr. Samuel Parker, member elect from the county of Van Buren, arrived, and having been qualified, was, on motion of Mr. Hall, admitted to take his seat as a member of this House.

On motion of Mr. Nowlin,

The House proceeded to the election of the remainder of the officers.

Mr. Thornton nominated Saurin Jenners for Assistant Clerk.

Mr. Toole nominated R. W. Gray.

Mr. Temple nominated H. W. Moore.

The Speaker appointed Messrs. Patterson and Brierly tellers.

On counting the ballots, it appeared that Saurin Jenners had received 14 votes; H. W. Moore, 4 votes; R. W. Gray 1 vote.

Mr. Jenners was therefore declared to be duly elected, and came forward and was sworn into office.

The House then proceeded to the election of Transcribing Clerk.

Mr. Thornton nominated J. S. Rinearson.

Mr. Toole nominated Moses Couch.

Mr. Temple nominated William P. Cowperthwait.

Mr. Frierson nominated R. W. Gray.

The Speaker appointed Messrs. Price and Summers tellers.

On counting the ballots it appeared that J. S. Rinearson had received 11 votes; M. Couch received 4 votes; R. W. Gray 3 votes; W. P. Cowperthwait 2 votes, blank 1.

Mr. Rinearson was declared to be duly elected and sworn into office.

Mr. Summers nominated L. Parkhurst for Enrolling Clerk.

Mr. Delashmutt nominated W. R. Ross.

The Speaker appointed Messrs. Bailey and Toole tellers.

On counting the ballots it appeared that Mr. Parkhurst had received 12 votes; Mr. Ross 5 votes; and Mr. Stoddard 3.

Mr. Parkhurst was therefore declared to be duly elected, and was sworn into office.

Mr. Mowlin, nominated Eli Stoddard for engrossing clerk; Mr. Temple nominated Barton T. David.

The Speaker appointed Messrs. Coop and Delashmutt tellers.

On counting the ballots it appeared that Eli Stoddard had received 15 votes; B. T. David 4 votes; blank 1.

Mr. Stoddard was declared to be duly elected and sworn into office.

Mr. Hall nominated S. W. Summers, for Sergeant-at-Arms.

Mr. Temple nominated J. W. Webber.

Messrs. Swan and Hall, were appointed tellers.

On counting the ballots it appeared that Mr. Summers had received 16 votes; and Mr. Webber 5 votes.

Mr. Summers was declared to be duly elected and accordingly sworn into office.

Mr. Thornton nominated P. D. Smith for Messenger.

Mr. Nowlin nominated C. E. Stone.

Mr. Delashmutt nominated B. Foutz.

Messrs. Thornton and Temple, were appointed tellers.

On counting the ballots, it appeared that Mr. Smith had received 4 votes, Mr. Stone 15 votes, Mr. Foutz 2.

Mr. Stone was therefore declared to be duly elected, and accordingly sworn into office.

Mr. Cox nominated John R. M'Donald for Assistant Messenger.

Mr. Nowlin nominated John B. Whiteside.

Mr. Delashmutt nominated John Lorton, Jr.

Mr. Grimes nominated S. M. Thompson.

Mr. Toole nominated John Delashmutt.

Messrs. Parker and Porter were appointed tellers.

On counting the ballots, it appeared that Mr. M'Donald had received 5 votes, Mr. Whiteside 11 votes, Mr. Lorton 3 votes, and Mr. Thompson 2.

Mr. Whiteside was declared to be duly elected, and was sworn into office.

Mr. Bailey nominated R. D. Barton for Door-keeper.

Mr. Temple nominated John C. Sleeth.

Messrs. Bankson and Cox were appointed tellers.

On counting the ballots it appeared that Mr. Barton had received 11 votes, Mr. Sleeth 5 votes, Mr. Parker 2 votes, R. D. Barton 1, R. T. Barton 1, blank 1.

Mr. R. D. Barton was declared to be duly elected.

Mr. Nowlin nominated George Moffit for assistant Door-keeper.

Messrs. Taylor and Toole were appointed tellers.

On counting the ballots it appeared that Mr. Moffit had received 16 votes, Mr. Sleeth 1, blank 1.

Mr. Moffit was therefore declared to be duly elected, and was sworn into office.

Mr. Thornton nominated Mr. Dupont for fireman.

The Speaker appointed Messrs. Summers and Hall tellers. On counting the ballots Mr. Dupont had 13 votes, blank 8.

Mr. Dupont was declared to be duly elected and was sworn into office.

Mr. Frierson offered the following resolution which was adopted.

Resolved, That one thousand copies of the Governor's message be printed.

Mr. Summers offered the following resolution which was adopted.

Resolved, That a committee of two be appointed on the part of House, to act with a similar committee of the Council, to wait on the Rev. Mr. Reynolds, and request him to open the present session of the Legislature by solemn prayer, to-morrow morning at 10 o'clock.

The Speaker appointed Messrs. Summers and Hall the committee on the part of the House.

Mr. Frierson offered the following resolution, which was adopted.

Resolved, That a committee of three be appointed to act in conjunction with a similar committee appointed by the Council to prepare joint rules regulating the intercourse between the two houses.

The Speaker appointed Messrs. Frierson, Bankson and Grimes said committee.

On motion of Mr. Nowlin,

The House adjourned until to-morrow morning at 10 o'clock.

Wednesday, November 14, 1838.

The House met pursuant to adjournment.

Mr. Grimes presented the credentials of Thomas Blair, as a member elect from the county of Des Moines, who being qualified was permitted to take his seat as a member of the House.

On motion of Mr. Bailey,

Mr. Barton was introduced to the House, and sworn in as Door-keeper.

A message was received from the Council by the Secretary thereof as follows:

The Council have instructed me to inform the House, that they concur in the resolution of the House, requesting the Rev. Mr. Reynolds to open the present Legislature by solemn prayer, that they have appointed a committee to act in conjunction with the committee of the House, and are now ready to repair to the hall of the House.

Mr. Summers moved to appoint a committee to wait upon the Council, and request the members to assemble in the hall of the House of Representatives, to attend solemn prayer by the Rev. Mr. Reynolds. Agreed to, and

Messrs. Summers and Parker were appointed said committee.

The members of the Council were announced, and taking the seats assigned them, the Throne of Grace was addressed by Mr. Reynolds; after which the members of the Council retired.

Mr. Frierson from the committee on standing rules, reported a set of Rules which were read and adopted.

[SEE APPENDIX, DOCUMENT No. 2.]

Mr. Swan offered the following resolution:

Resolved, That the following standing committees be appointed: Judiciary, Common Schools, Internal Improvements, Militia, Claims, Enrollments, Expenditures, Territorial Affairs, Roads and Highways, and Elections. which was adopted.

On motion of Mr. Nowlin,

Resolved, That one hundred copies of the Organic Law be printed for the use of this House.

The following communication was received from the Secretary of the Territory—

SECRETARY'S OFFICE, }
Nov. 13, 1838. }

To the Honorable the Speaker of the House of Representatives of the Territory of Iowa,

SIR—Having consulted with His Excellency Governor Lucas, on the subject of public expenditures, I am authorized to entertain serious doubts as regards the sanction which the exercise of my discretion might receive, in making provisions for the prosecution of the public business.

It is therefore respectfully submitted—whether a special Act or resolution of the Legislative Assembly, regulating my discretion in the premises would not be advisable? than which nothing would be more in accordance with my earnest desire.

With due consideration, your ob't ser'vt.

WM. B. CONWAY,
Secretary of the Territory.

On motion of Mr. Grimes,

Resolved, That the Secretary of the Territory be requested and instructed to provide a sufficient quantity of stationery for each and every member of this House, and the Chief Clerk of the same, including drafting paper, letter paper, wrapping paper, pen-knives, paper-knives, letter stamps, wafers, sealing wax, tape, twine and ink; together with every thing which shall contribute to the convenience, comfort and gentility of the House.

Mr. Grimes presented the memorial of J. A. Birchard Jr, contesting the election of Samuel R. Murry, which was referred to the following select committee, viz:—Messrs. Grimes, Summers, Bankston, Hall, and Nowlin.

On motion of Mr. Summers,

Resolved, That each member of the House of Representatives, be furnished with twenty copies of the Iowa Territorial Gazette, as often as it may be published during the session of the Legislature, and that the editors of that paper be furnished with a copy of this resolution.

On motion of Mr. Grimes,

Resolved, That the Judges of the Supreme Court, be requested to present to this House during the present session, for its action upon the same, such bills for this Territory as they should deem necessary for adoption.

On motion of M. Cox,

Resolved, That a select committee of three be appointed on printing.

The speaker appointed Messrs. Cox, Coop and Thornton, said committee.

On motion of Mr. Bailey,

Resolved, That the clerk inform the Council that the House of Representatives has met, formed a quorum, elected its officers, and is now ready to proceed to legislative business.

On motion of Mr. Temple,

Resolved, That as a mark of respect for the memory of Cyrus S. Jacobs, late a member elect of this House, the members will wear the usual badge of mourning for the space of thirty days.

On motion of Mr. Swan, the House adjourned.

Thursday, November 15, 1838.

The House met pursuant to adjournment.

The Speaker appointed the following standing committees:

On Judiciary—Messrs. Grimes, Hastings, Nowlin, Hall, and Summers.

On Common Schools—Messrs. Bailey, Toole, Taylor, Coop and Roberts.

On Internal Improvements.—Messrs. Cox, Patterson, Porter and Temple.

On the Militia—Messrs. Hall, Thornton, Bankson, Coop and Cox.

On Claims—Messrs. Taylor, Parker, Blair, Swan and Summers.

On Enrollments—Messrs. Price and Toole.

On Expenditures—Messrs. Patterson, Nowlin, Taylor, Porter and Delashmutt.

On Territorial Affairs—Messrs. Nowlin, Temple, Bankson, Briery and Swan.

On Roads and Highways.—Messrs. Summers, Roberts, Cox, Price and Coop.

On Elections.—Messrs. Temple, Thornton, Toole, Grimes and Hastings.

On motion of Mr. Grimes,

Resolved, That the Governor, Secretary of the Territory, Members of Council, Judges of the Supreme Court, Editors or Reporters of the different newspapers in the Territory, and former members of either branch of the Wisconsin Legislature, be respectfully invited to take seats within the bar of this House.

On motion of Mr. Frierson,

Resolved, That the Chief Clerk of this House, be directed to cause locks to be affixed to each of the desks in this hall, which is not already furnished with one.

On motion of Mr. Frierson,

Resolved, that a committee of five be appointed, with instructions to report "A bill to provide for organizing the Legislative Assembly, and compensating its officers."

The Speaker appointed Messrs. Frierson, Grimes, Taylor, Summers and Porter said committee.

Mr. Bailey offered the following resolution:

Resolved, by the House of Representatives, (the Council concurring herein) that there be a committee of five appointed, to act with a similar committee on the part of the Council, to enquire into the expediency of curtailing the number of the officers of both Houses, and that that committee report what offices shall be vacated.

On motion of Mr. Cox,

The above resolution was laid upon the table.

Mr. Frierson from the joint committee to prepare rules to regulate the proceedings between the two Houses, reported the same, which were read and adopted.

[SEE APPENDIX, DOCUMENT No. 2.]

On motion of Mr. Hastings,

Robert G. Roberts, member elect from the counties of Cedar, Jones, Linn and Johnson, appeared, was qualified and permitted to take his seat.

Mr. Brierly offered the following resolution.

Resolved, That a committee be appointed to draft and revise a code of laws for the Territory of Iowa, which

On motion of Mr. Grimes, was laid upon the table.

On motion of Mr. Swan,

Resolved, That that part of the Governor's message which relates to Finance, be referred to the committee on Expenditures.

Mr. Grimes, from the committee to whom was referred the memorial of Jabez A. Birchard Jr., asked for instructions from the House.

On motion of Mr. Frierson,

Resolved, That one hundred copies of the standing, and joint rules

as adopted by this House, be printed for the use of the members thereof.

On motion of Summers,

Resolved, That the committee to whom was referred the memorial of J. A. Burchard, Jr., have further time to make their report.

Mr. Grimes gave notice that he should on to-morrow, bring in a bill relative to pleas in abatement, and the abatement of suits by the death of parties.

On motion of Mr. Bankson,

The House resolved itself into a committee of the whole, Mr. Nowlin in the chair, for the purpose of taking into consideration the Governor's Message, which was referred to the appropriate standing committees, after which the committee rose and reported the same, and asked the concurrence of the House.

The report of the committee was concurred in.

On motion of Mr. Bailey,

The House adjourned until 2 o'clock P. M.

2 O'CLOCK, P. M.

The House met.

On motion of Mr. Cox,

Resolved, That so much of the Governor's message as relates to establishing the seat of government, be referred to the committee on Territorial Affairs.

On motion of Mr. Swan,

Resolved, That the chief Clerk of this House be directed to make an arrangement with the Post master of this place, for the payment of all postage on letters and papers, sent to and from the House during its session.

On motion of Mr. Summers,

Resolved, That twenty-six copies of so much of the election law of Wisconsin as relates to contested elections, be printed for the use of this House.

On motion of Mr. Nowlin,

Resolved, (The Council concurring herein,) that the enacting clause of all laws passed by the Legislative Assembly of Iowa, shall be as follows:—'Be it enacted by the Council and House of Representatives of the Territory of Iowa.'

On motion of Mr. Grimes,

Resolved, That the Secretary of the Territory be requested to furnish three sectional maps of the Territory of Iowa, for the use of this House.

On motion of Mr. Frierson,

Resolved, That the Judiciary committee be instructed to bring in, a bill to authorized the Legislative Assembly to punish for contempt, and privilege the members from arrest.

On motion of Mr. Grimes,

Resolved, That the committee on roads and highways, be instructed to inquire into the expediency of establishing a territorial

road as near as practicable, on the line dividing townships 69 and 70, from Burlington in Des Moines county, through Keosauqua in Van Buren county, to the line of the State of Missouri.

The House adjourned.

Friday, November 16, 1838.

On motion of Mr. Frierson,

Resolved, That a standing committee on townships and county boundaries, be appointed by the Speaker.

Messrs. Frierson, Hall, Summers, Coop and Bankson were appointed said committee.

Mr. Cox from the committee on printing, made a report, which on motion of Mr. Bankson, was for the present laid upon the table.

On motion of Mr. Frierson,

Resolved, That so much of the Governor's message, as relates to townships, be referred to the committee on townships and county boundaries.

On motion of Mr. Swan,

Resolved, That a standing committee on incorporations be appointed by the Speaker.

Messrs. Swan, Grimes, Bailey, Hastings and Roberts, were appointed said committee.

On motion of Mr. Hastings,

Resolved, That the committee on roads and highways be instructed, to inquire into the expediency of establishing a territorial road from the town of Bloomington through West Liberty, in the county of Muscatine, to the town of Napoleon, the seat of justice for the county of Johnson.

On motion of Mr. Nowlin,

Resolved, That Ministers of the Gospel who may visit this place during the sittings of the Legislature, be invited to take seats within the bar of this House at pleasure.

On motion of Mr. Frierson,

Resolved, That the committee on roads and highways, be instructed to inquire into the expediency of establishing a territorial road on the best practicable route from Bloomington Muscatine county *via* Rochester in Cedar county, to the county seat of Linn.

Mr. Grimes, according to notice previously given, reported bill No. 1, H. R. File, entitled "A bill relative to pleas in abatement and the abatement of suits by the death of parties," which was read a first time and ordered to be printed.

The following message was received from the Council by their Secretary:

Mr. Speaker:—I am instructed by the Council to inform the House that they have concurred in the form of the enacting clause to all laws passed by the Legislative Assembly of Iowa.

On motion of Mr. Cox,

Resolved, That a committee be appointed by the Speaker to borrow from the gentlemen of the bar of this city, as well as other citizens, such books as may be useful to the different standing committees in drafting laws, &c.

Messrs. Cox, Temple, and Delashmutt, were appointed said committee.

On motion of Mr. Coop,

Resolved, That the committee on roads and highways, be instructed to inquire into the expediency of laying out a territorial road, commencing at the city of Burlington, leading to the Indian Agency on the Des Moines river by way of Mount Pleasant, from thence to Roam, from thence to Lockridge, from thence to Smith's crossing on Big Cedar, from thence to the Indian Agency on the Des Moines river.

On motion of Mr. Bailey,

Resolved, That the committee on the Judiciary, be instructed to inquire into the expediency of so changing the law, defining the duties of Constables, as to make it their duty to take delivery bonds, and said committee to report by bill or otherwise.

On motion of Mr. Hastings,

Resolved, That Messrs. Clark and McKenney, publishers of the Territorial Gazette, be employed to print on slips, daily, copies of the Journal of the proceedings of the House, for the use of the members; and that one copy be furnished for each member of the House; one copy for his Excellency the Governor, and the Secretary of the Territory, and to publish the same in the Gazette, and to do such other printing as may be required during the present session; and that they be paid such prices for the same, as is paid the printers to Congress for similar work.

On motion of Mr. Parker,

Resolved, That the committee on the Judiciary be instructed to enquire into the expediency of amending, or repealing all laws now in force in the territory of Iowa, for the stay of Executions, and they have leave to report by bill or otherwise.

The following resolution was offered by Mr. Nowlin:

Resolved, By the Council and House of Representatives of the Territory of Iowa, that Messrs Russell and Reeves, publishers of the Iowa News, at Dubuque, be employed to print the laws which may be passed at the present session of the Legislative Assembly, and that they be allowed the prices that were given by the Legislature of Wisconsin for the same. Which, on motion of Mr. Hastings, was laid on the table.

On motion of Mr. Hall,

Resolved, That each standing committee of this House be furnished with one copy of the laws passed by the Legislative Assembly of the Territory of Wisconsin at their last session.

On motion of Mr. Bailey,

Resolved, That the committee on roads and highways be instructed to inquire into the expediency of locating a Territorial road on the north of the Des Moines river, commencing at the town of Keokuck, on the Mississippi river, running thence to Farmington in

Van Buren county, thence to Lexington, thence to Bentonsport, thence to Columbus, thence to Philadelphia, and thence to the Indian agency on the Des Moines river.

On motion, the House adjourned until 2 o'clock P. M.

2 O'CLOCK P. M.

Mr. Blair offered the following resolution:

Resolved, That James G. Edwards be employed to print the laws of this territory, which may be passed during the present session of the Legislature, and the concurrence of the Council is asked herein.

On motion of Mr. Hastings the said resolution was laid on the table.

The following communication was received from the Secretary of the Territory:

SECRETARY'S OFFICE,
Nov. 15, 1838.

To the Honorable WILLIAM H. WALLACE, Speaker of the House of Representatives:

SIR,—A resolution adopted by the House of Representatives on the 14th inst., requiring of the Secretary of the Territory the performance of certain duties, involving the expenditure of money, was transmitted to this department, and as a precautionary measure, the said resolution was submitted to his Excellency Governor Lucas for the purpose of amicable consultation: whereupon it was suggested that the said resolution did not possess sufficient authority to justify the expenditures therein required.

For this reason the subject is again referred to the consideration of the Honorable the Legislative Assembly.

On the 13th inst. a communication was respectfully submitted to the Honorable the Legislative Assembly, by this Department of the Territorial Government, calling the attention of both branches of the Legislature to the subject of expenditures and disbursements constituting a class of duties and responsibilities with which the Secretary of the Territory is in a special manner connected by the provisions of the Organic Law.

The communication of the 13th inst. from this department, resulted from a consultation which the Secretary had then recently held with his Excellency, the Governor, and to which a respectful reference was made.

To advise with the Executive in all matters relating to the public interest, is esteemed by me as a pleasing duty, and whilst I would preserve all proper distinctions between our respective functions and responsibilities, it will always afford me great satisfaction to be able to concur in what he may deem it his province to suggest and recommend.

Whatever may be the binding force of precedents, in courts of law or equity, the fact is sufficiently apparent, that the Legislative Assembly must be governed by their own judgment and discretion, regulated and enlightened by the fundamental law under the authority of which they conduct their deliberations, and from which their enactments derive validity; and therefore although much respect

may be due, and consequently paid, to the history of legislation in other States and Territories, still it is conceived that an officer of the Government of Iowa, can derive no authority from proceedings which were had under a distinct and foreign jurisdiction. A plain, explicit, and positive definition of rights, duties and responsibilities, is a prominent feature in our equitable and admirable institutions; and any departure from the principle, thus indicated, tends directly to confusion, and to the countless evils which confusion so infallibly begets.

The Secretary is exceedingly anxious to avoid the causes and the consequences of confusion.

The eleventh section of the act of Congress, of the 12th of June, 1838, which is properly regarded as our Territorial charter, after providing a contingent fund "to be expended by the Governor," contains the following provision, to wit:

"And there shall be appropriated annually a SUFFICIENT SUM, to be expended by the Secretary of the Territory, and upon an estimate to be made by the Secretary of the Treasury of the United States, to defray the expenses of the Legislative Assembly, the printing of the laws and other incidental expenses, and the Secretary of the Territory shall annually account to the Secretary of the Treasury of the United States, for the manner in which the aforesaid sum shall have been expended."

This is the law of the land,—and it contains in my estimation, the following substantial provisions, to wit:

1. That money shall be appropriated, annually, by the Congress of the United States, for the purpose of defraying the expenses of the Territorial Government of Iowa.

2. That this money thus appropriated, shall be in a "sufficient sum" to accomplish the purposes intended by the act of Congress.

3. That this money shall be expended by the Secretary of the Territory, upon an estimate to be made by the treasury department of the United States.

4. That the object of the appropriation, is to defray the expenses of the Legislative Assembly, the printing of laws, and other incidental expenses.

5. That the Secretary of the Territory is bound to ACCOUNT annually, to the Treasury Department at Washington city, for the manner in which he shall have expended this money; which, as the law provides, shall be a SUFFICIENT SUM, and the Secretary is bound in a highly penal bond together with approved securities, for the faithful performance of this responsible and delicate trust.

6. The expenditure of money, in the absence of a direct appropriation by law, cannot, as I have been duly assured, receive the executive sanction, inasmuch as this preliminary requirement is discernable in every ramification of our Republican Government.—That we are bound to limit our necessary and proper expenditures by the Congressional appropriation, is an opinion from which I feel reluctantly constrained to withhold my assent; nor can I object, upon mature consideration, to the instructions contained in the resolution of the Honorable the House of Representatives, already referred to, inasmuch as I deem it highly important to promote the com-

fort, convenience and dignity, of those who are convened in public deliberations. To advance these objects and at the same time, to prevent the clashing of separate jurisdictions, and to avoid the assumption of doubtful or dangerous responsibilities, it is respectfully submitted, whether a general law should not be enacted by the Legislative Assembly, providing in specific terms, for the disbursement of the public money, by the Secretary of the Territory, containing instructions on the following heads:

1. Providing for the manner in which each House of the Legislature shall be furnished.

2. Providing for the number of clerks and other officers in each House, and specifying their *per diem* compensation.

3. Providing for the franking of letters, documents, &c. specifying the official characters who shall possess that privilege, how long it shall be enjoyed, and to what extent.

4. Providing for the form of a certificate of service for the members, clerks, and other officers of each branch of the Legislature; and how such certificate shall be authenticated with a clause requiring the Secretary to pay the same.

5. Providing for the payment of printers; stating how their accounts shall be authenticated, including the clause relating to payment.

6. Providing for the payment of *rent*; specifying the *amount* to be paid for the building occupied by the Legislative Assembly, during its present session.

7. Providing for the allowance of a sufficient sum, for the rent and furniture of the Governor's office, and the rent and furniture of the office of the Secretary, together with a sufficient sum to pay the perquisites of the latter, in preparing the laws and superintending their publication and distribution—allowing him a frank at all times, for letters and documents to every part of the Territory.

An act of the Legislative assembly, embracing the foregoing or similar provisions, with a general clause relating to accounts, appears to be absolutely necessary for the successful prosecution of the public business; and the propriety of making the suggested enactment at an early day, is a fact which cannot escape the vigilant observation, of the Honorable the Legislative Assembly. Accounts are being daily presented to the Secretary for allowance and payment, and he is left without a specific appropriation to regulate his disbursements. Persons are frequently disappointed in their application for money, and there is a constant demand for explanations and apologies. This should not be so. Why not make a specific appropriation at once, that our territorial organization may be well understood; the number of officers known, their respective duties designated and the amount of their compensation declared by law? That this will be done in due manner and form by the Legislative authorities, the Secretary of the Territory is not disposed to doubt; and he would take this occasion to assure the Honorable the Legislature, that nothing within the scope of his proper authority will be omitted, which can in any wise contribute to the comfort, convenience, and dignity of their highly responsible proceed-

ings; and he will conclude by expressing the high consideration with which he is their respectful and obedient servant,

And yours,

WM. B. CONWAY,

Secretary of the Territory.

Which, on motion of Mr. Frierson, was referred to the committee appointed yesterday, to bring in "A bill to provide for organizing the Legislative Assembly, and compensating its officers."

Mr. Summers offered the following resolution:

Resolved, That Messrs Clarke and McKenney, publishers of the Iowa Territorial Gazette in this city, be employed to print the journal of the proceedings of the House of Representatives in pamphlet form, and that they be paid the same prices as are paid to the printers of Congress for such work.

Mr. Cox moved to amend the resolution by adding—"and that Russel and Reeves of Dubuque, be employed to print the laws passed at the present session on the same terms."

Mr. Summers accepted the amendment.

Mr. Grimes moved to amend the resolution as amended, as follows—strike out Russell and Reeves of Dubuque, and insert James G. Edwards of Burlington.

The House would not agree to the amendment of Mr. Grimes.

The question then recurred on the original resolution as amended by Mr. Cox, on which question the yeas and nays were called for and were as follow:

Yeas—Messrs. Bankson, Bailey, Coop, Cox, Frierson, Hastings, Nowlin, Porter, Roberts, Summers, Swan, Temple, Toole, —13.

Nays—Messrs. Blair, Brierly Grimes, Hall, Patterson Parker, Price, Taylor, Thornton and Wallace, Sp'r—10.

So the resolution was adopted.

On motion of Mr. Patterson,

Resolved, That the committee on roads and highways, be instructed to inquire into the expediency of establishing a territorial road from the town of Fort Madison, on the Mississippi river, by the way of West Point to the Indian Agency on the Des Moines river.

On motion of Mr. Toole,

Resolved, That the committee on roads and highways be instructed to inquire into the expediency of bringing in a bill to establish a territorial road leading from Burlington to Dubuque, on the nearest and most practicable ground, via Black Hawk, Louisa county, Bloomington, Wyoming, mouth of Pine, Muscatine county, Buffalo, Rockingham, Davenport, Parkhurst, Elizabeth city, Scott county, Camanche, New York, Lyons, Clinton county, and Charleston and Bellview, in Jackson county.

Mr. Hastings asked leave to introduce a bill to legalize the acts of Robert G. Roberts, a justice of the peace of the original county

of Du Buque. Leave was granted, and Messrs. Hastings, Bankson, and Nowlin, were appointed the committee to prepare the bill.

On motion the House adjourned.

Saturday, November 17, 1838.

The journal of yesterday was read and corrected.

On motion of Mr. Porter,

Ordered, That the resolution of yesterday respecting printing be reconsidered.

On motion of Mr. Grimes,

Said resolution was laid upon the table, subject to the order of the House.

On motion of Mr. Frierson,

Resolved, That a committee of three be appointed to take into consideration that part of the Governor's message which relates to a Territorial Library, and that they have leave to report by bill or otherwise.

Messrs. Frierson, Taylor and Nowlin were appointed said committee.

On motion of Mr. Roberts,

Resolved, That the committee on Roads and Highways be instructed to enquire into the expediency of locating a Territorial road from Dubuque by way of the seat of justice of Jones county, Rochester in Cedar county, West Liberty in Muscatine, thence to Napoleon, the seat of justice of Johnson county.

On motion of Mr. Bailey,

Ordered, That the resolution adopted yesterday respecting a territorial road from Keokuck on the Mississippi to the Indian Agency on the Des Moines, be reconsidered and laid on the table for the present.

On motion of Mr. Toole,

Resolved, That the committee on Roads and Highways be instructed to enquire into the expediency of bringing in a bill establishing a territorial road, leading from the mouth of the Iowa river (north side) to Mount Pleasant, Henry county, via Wapello, Louisa county.

Mr. Frierson, from the select committee appointed to prepare a bill to provide for organizing the Legislative Assembly and compensating its officers, reported a bill for that purpose, which, on motion of Mr. Grimes, was laid on the table.

Mr. Nowlin moved that said bill be taken up and recommitted, which was agreed to.

Mr. Hastings, from the committee to prepare a bill to legalize the acts of Robert G. Roberts, reported a bill for that purpose, which was read a first time.

The following communications were received from the Secretary of the Territory—

SECRETARY'S OFFICE, }
Nov. 16, 1838. }

To the Honorable WM. H. WALLACE, Speaker of the House of Representatives.

Sir:—I have the honor to acknowledge the receipt of a resolution of the House of Representatives, adopted on the 15th inst. and transmitted this day, requesting the Secretary of the Territory to furnish "three sectional maps of the Territory of Iowa" for the use of the members of said house; in reply to which, I have to inform you, that, after diligent inquiry, I have been unable to comply with the request of your honorable House. I can find but one copy of a sectional map of Iowa in town, and that one is in the office of the Executive, as private property. Intelligence has, however, been informally received, that Mr. Judson, the author of the sectional map of Iowa, is expected here with a large supply of said maps, at, or about, the time of the approaching land sale to be held at this place.

If he should not arrive, Mr. Andrew J. Russell of Scott county, (and now in Burlington) is believed to be well qualified to execute this or any other map, should the Legislative Assembly employ him for that purpose.

If Mr. Judson should not arrive, and the Legislature should decline the appointment of any other person to execute the map, from the copy now here, which might, it is believed, be obtained for that purpose, by the request of the Legislature,—then and in that case, the Secretary will order the maps so specified in the resolution above referred to, from Cincinnati, if directed so to do.

With great consideration,

Your very ob't ser'vt.

WM. B. CONWAY,
Secretary of the Territory.

SECRETARY'S OFFICE, }
Nov. 16, 1838. }

To the Honorable WM. H. WALLACE, Speaker of the House of Representatives.

Sir:—I had this day the honor to receive a resolution adopted by the House of Representatives, in relation to "a badge of mourning" to be provided for and worn by the members, as a mark of their respect for the memory of the much lamented Cyrus S. Jacobs; the requirement of which resolution was promptly complied with, by, Sir, your very

Obedient servant,

WM. B. CONWAY,
Secretary of the Territory of Iowa,

On motion of Mr. Hastings the said communications were laid up on the table.

The following communication was received from the Hon. Cha's. Mason Chief Justice of the Supreme Court, which, together with

Iowa State Librarian

the accompanying document, was read and referred to the committee on the Judiciary, with instructions to have the same printed.

BURLINGTON, November 16th, 1838.

To the Speaker of the House of Representatives.

SIR,—In compliance with the resolution passed in the House of Representatives on the 14th inst., I herewith present a bill for regulating criminal procedure in Courts of Justice. Having been requested by one of the members of that body to draft such a bill, I had been engaged some time in preparing it and had nearly completed it when the resolution was adopted. As it is not convenient at present to consult with the other judges in relation to this matter, and I am informed it is desirable to have the bill in readiness for legislative action as soon as practicable, I have been induced to present it at once for the disposal of the House.

Yours respectfully,

CHARLES MASON.

On motion of Mr. Cox,

Resolved, That the committee on Territorial affairs be instructed to inquire into the expediency of establishing a territorial road, on the mail route established by Congress, from Dubuque, Richfield, Point Pleasant, and Davenport.

Mr. Frierson, from the committee to whom was re-committed the bill to provide for organizing the Legislative Assembly and compensating its officers, made a report accompanied by a bill which was read a first time, and, on motion of Mr. Cox, laid upon the table.

Mr. Grimes offered the following amendment to rule 18th:—In the last line, strike out the word 'twice,' and insert the word 'once,' which amendment lies one day.

On motion of Mr. Hall,

Resolved, That the committee on Internal improvements be instructed to inquire into the expediency of memorializing Congress for an appropriation for the improvement of the navigation of the Des Moines river.

On motion of Mr. Bailey,

Resolved, That before this House contracts for the printing of the laws passed at this session, that the printer employed to do said printing shall be bound in a good and sufficient bond for the prompt delivery of said laws at some reasonable time.

Mr. Nowlin moved to adjourn, which was not agreed to.

On motion of Mr. Summers, the House adjourned until Wednesday next.

Wednesday, November 21, 1838.

The House met pursuant to adjournment.

On motion of Mr. Summers, Samuel R. Murray, member elect from the counties of Scott and Clinton, having been qualified, was admitted to take his seat.

Mr. Grimes presented the petition of sundry citizens of Scott county, praying that the charter of John Wilson be declared forfeited, and that Samuel Barclay be permitted to establish a ferry across the Mississippi river opposite the town of Davenport; which was referred to the committee on Corporations.

Mr. Frierson presented the petition of sundry citizens of Muscatine county, praying that a charter may be granted to Aaron Usher and Thomas M. Groom to establish and keep a ferry across the Mississippi river opposite the town of Wyoming in said county; which was referred to the committee on Roads and Highways.

On motion of Mr. Porter,

Resolved, That the committee on Internal Improvements be instructed to enquire into the expediency of memorializing Congress for an appropriation for the improvement of the navigation of Skunk river.

Mr. Grimes, from the select committee to whom was referred the memorial of Jabez A. Burchard, jr., contesting the seat of Samuel R. Murray, made a report.

[SEE APPENDIX, DOCUMENT No. 3.]

Mr. Summers, from the same committee, made a minority report.

[SEE APPENDIX, DOCUMENT No 4.]

The said reports having been read,

On motion of Mr. Summers, it was ordered, That Samuel R. Murray be granted a reasonable time to send for persons and papers.

On motion of Mr. Frierson, the last motion was reconsidered.

On motion of Mr. Grimes, Mr. Jabez A. Burchard, Jr. was permitted to appear before the House to answer the points on which Mr. Murray claims his seat, after which,

On motion of Mr. Hall,

The papers and documents in reference to the said contested seat were read.

Mr. Summers renewed his motion to grant Mr. Murray further time, when on taking the question it was lost.

Mr. Swan moved that the report of the majority of the committee be concurred in. Said report embraced the following resolution:

Resolved, That the seat now occupied by Samuel R. Murray be, and the same is hereby vacated, and that Jabez A. Burchard Jr. be admitted to take the same as a member of this House from Scott and Clinton counties.

On this question the yeas and nays were called for, and were as follows:

Yeas—Messrs. Bankson, Bailey, Coop, Cox, Frierson, Grimes, Hall, Hastings, Nowlin, Patterson, Parker, Porter, Roberts, Swan, and Thornton.—15.

Nays—Messrs. Blair, Brierly, Summers, Taylor, Temple, Toole and Wallace, Speaker—7.

So the report was concurred in.

Mr. Grimes presented the credentials of George H. Beeler, member elect from the county of Des Moines, (to fill the vacancy occa-

sioned by the death of Cyrus S. Jacobs,) who, having been duly qualified, was permitted to take his seat.

Mr. Grimes from the committee on the Judiciary, reported bill No. 4. H. R. file, entitled "A bill regulating criminal proceedings," without amendment.

On motion of Mr. Nowlin,
The House adjourned until 2 o'clock P. M.

2 O'CLOCK, P. M.

Mr Beeler gave notice that he should on Friday next, or at some day thereafter, ask leave to introduce "a bill to organise Probate Courts, and defining the powers and duties of Executors and Administrators."

Messrs. Beeler, Hall and Swan, were appointed the committee to prepare said bill.

On motion of Mr. Hastings,

Resolved, by the Council and House of Representatives of the Territory of Iowa, That the judges of the supreme court be requested to furnish this Legislative Assembly, during its present session, with such bills as will in their opinion form a proper code of jurisprudence for Iowa, and regulate the practice of the courts thereof.

On motion of Mr. Summers,

Jabez A. Burchard, jr. member elect from the counties of Scott and Clinton, having been qualified, was admitted to take his seat.

On motion of Mr. Nowlin,

Bill No. 3, H. R. file, entitled "a bill to provide for organizing the Legislative Assembly, and compensating its officers," was read a second time, when the House resolved itself into a committee of the whole for the consideration of said bill, Mr. Barkson in the chair. After some time, the committee rose, and by their chairman reported the bill to the House with sundry amendments, in which they asked the concurrence of the House.

The House concurred in the report of the committee.

Mr. Grimes' proposed amendment to the 18th rule was considered, and adopted.

Mr. Frierson from the committee to prepare a bill respecting the Territorial Library, reported bill No. 5, H. R. file, entitled "a bill to provide for the safe keeping and management of the Territorial Library," which was read a first time.

The following message was received from the Council by the Secretary, Mr. Wallace:

Mr. Speaker—

I am instructed by the Council to inform the House of Representatives that they have adopted the following resolution:

Resolved, (if the House of Representatives concur) That Messrs. Russel and Reeves, publishers of the Iowa News, be employed to print the laws which may be passed at the present session of the Legislative Assembly, and that they be allowed the same price for printing the same as is allowed the printers to Congress; and that the said Russel and Reeves be required to enter into bonds, with

good and sufficient security, to the Secretary of the Territory, in the sum of five thousand dollars, to have the same completed by the first day of May, A. D. 1839. And then he withdrew.

Mr. Nowlin moved that the House concur in the above resolution; which was not agreed to.

On motion of Mr. Grimes,

The resolution was laid on the table to be made the order of the day for Saturday next.

On motion of Mr. Grimes,

Bill No 1, H. R. file, entitled "a bill relative to pleas in abatement, and the abatement of suits by the death of parties," was read a second time, when the House resolved itself into a committee of the whole, for the consideration of said bill, Mr. Blair in the chair. After some time, the committee rose and reported the bill to the House with sundry amendments in which they asked the concurrence of the House.

The House concurred in the report of the committee.

On motion of Mr. Grimes, the House adjourned.

Thursday, November 22, 1838.

Mr. Frierson presented the petition of sundry citizens of Muscatine and Louisa counties, praying for the improvement of the Muscatine Slue, which was referred to the committee on Internal Improvements.

Mr. Summers presented the petition of sundry citizens of Clinton county, praying for an alteration in the boundaries of said county; which was referred to the committee on township and county boundaries.

Mr. Coop presented the petition of sundry citizens of Henry county, praying that a new county may be formed out of the country west of said county; which was referred to the following select committee, viz: Messrs. Coop, Bankson, Porter, Summers and Hall.

Mr. Summers offered the following;

Resolved, That the committee on Internal Improvements be instructed to inquire into the expediency of memorializing Congress for an appropriation for the improvement of the navigation of the Wabesipinacon river.

Mr. Cox moved to amend by adding, 'and also the Big Maquoketa.'

Mr. Hastings moved to amend the amendment, by adding, "and the Cedar fork of the Iowa."

The amendments were agreed to; the question then recurred on the resolution as amended; on putting the question, it was decided in the affirmative.

On motion of Mr. Bailey,

Resolved, That a select committee of three be appointed, to inquire into the expediency of so altering the law relative to the

mode of Sheriffs' collecting taxes, as to authorize them in certain districts of their respective counties, to give notice of the time and place when and where they will attend to receive the amount of taxes due from all persons in said district; and [that they report by bill or otherwise.

The Speaker appointed Messrs. Bailey, Nowlin, and Grimes, said committee.

On motion of Mr. Beeler,

Resolved, That a select committee be appointed to memorialize Congress, praying the extinguishment of the Indian title to a portion of their lands within this territory.

The Speaker appointed Messrs. Beeler, Cox, Taylor, Temple and Toole, the said committee.

Mr. Cox gave notice that he would, on Tuesday next, or at some day thereafter, ask leave to introduce a bill defining the duties of county surveyors.

Messrs. Cox, Swan and Summers were appointed the committee to prepare the bill.

M. Hastings gave notice that he would on to morrow, bring in a bill regulating the interest on money and repealing the usury law now in force in the Territory of Iowa.

Messrs. Hastings, Patterson and Brierly, were appointed the committee to prepare the bill.

Mr. Bailey, from the committee on schools, reported bill No. 6, H. R. file, entitled "a bill for the establishment of Common Schools;" which was read a first time by its title and ordered to be printed.

On motion of Mr. Grimes,

Bill No. 4, H. R. file, entitled "a bill regulating criminal proceedings," was read a second time, when the House resolved itself into a committee of the whole for the consideration of said bill, Mr. Brierly in the chair. After some time the committee rose, and, by their chairman, reported the bill to the House with sundry amendments, in which they asked the concurrence of the House. The House concurred.

Mr. Cox moved to amend the 93d section of said bill, in 2d line, by striking out the words "or in the penitentiary."—On putting the question, it was decided in the negative.

On motion of Mr. Cox,

The 23d section was amended, by striking out the words "officers appointed by the Governor of this Territory" and "township."

On motion of Mr. Beeler,

The 23d section was amended by striking out the word "or" in the 3d line.

On motion of Mr. Nowlin,

The rule requiring bills to be engrossed, was suspended in reference to the above bill.

The said bill was then ordered to a third reading.

The following message was received from the Council, by their Secretary, Mr. Wallace.!

Mr. Speaker,

The Council have passed the accompanying memorial to the Congress of the United States on the subject of furnishing the inhabitants of the Territory with three six pound brass pieces of cannon, carriages and equipments, also one thousand Hall's carbines, with two thousand rifle pistols, cartridge boxes, &c.; one thousand short swords, scabbards, &c. and for the establishment of a depot of arms, in which they ask the concurrence of the House—And then he withdrew.

On motion, the House adjourned until 2 o'clock P. M.

2 O'CLOCK, P. M.

On motion of Mr. Hastings,

The House resolved itself into a committee of the whole for the consideration of bill No. 2, H. R. file, entitled "a bill to legalize the acts of Robert G. Roberts, a justice of the peace in and for the original county of Dubuque," Mr. Beeler in the chair. After some time, the committee rose, and by their chairman reported the bill to the House without amendment, in which they asked the concurrence of the House. The House concurred. The bill was then ordered to be engrossed for a third reading.

On motion of Mr. Cox,

The following resolution, which was laid on the table on the 17th inst. was taken up and considered:

Resolved, That Messrs. Clarke and M'Kenny, publishers of the Iowa Territorial Gazette, in this city, be employed to print the journal of the proceedings of the House of Representatives in pamphlet form, and that they be paid the same prices as are paid to the printers to Congress for such work; and that Russel and Reeves of Dubuque be employed to print the laws passed at the present session on the same terms.

Mr. Swan offered the following amendment:

"And that the said Russell and Reeves be required to enter into bonds with good and sufficient security to the Secretary of the Territory in the sum of five thousand dollars to have the same completed and ready for delivery on the first day of May, A. D. 1839," which was agreed to.

Mr. Grimes moved to strike out Russell and Reeves, wherever it occurs, and insert James G. Edwards.

On this question the yeas and nays were called for, and were as follow:

Yeas—Messrs. Blair, Brierly, Grimes, Hall, Patterson, Porter, Price and Taylor.—8.

Nays—Messrs. Bankson, Bailey, Beeler, Burchard, Coop, Cox, Frierson, Hastings, Nowlin, Roberts, Summers, Swan, Temple, Thornton, Toole, and Wallace, Speaker—16.

The question then recurred on the resolution as amended by Mr. Swan; the yeas and nays were called for and were as follow:

Yeas—Messrs Bankson, Bailey, Beeler, Brierly, Burchard, Coop, Cox, Frierson, Hastings, Nowlin, Roberts, Summers, Swan, Temple, Thornton, Toole, and Wallace, Speaker—17.

Nays—Messrs. Blair, Grimes, Hall, Patterson, Porter, Price and Taylor—7

So the resolution was adopted.

The following message was received from the Council by their Secretary, Mr. Wallace:

Mr. Speaker,

I am instructed by the Council to furnish the House of Representatives with the accompanying transcript of a communication received by the Council from the Hon. Wm. B. Conway Secretary; also copies of the volumes to which he refers in said communication. And then he withdrew.

SECRETARY'S OFFICE, Nov. 22, 1839.

To the Hon. Jesse B. Browne,

President of the Council:

SIR—The receipt of a resolution adopted by the Honorable the Legislative Council, on the 20th inst., "requesting the Secretary of the Territory to furnish one or more copies of the acts passed by the Michigan Legislature, in 1834 and 5," is hereby respectfully acknowledged.

It is regretted by the Secretary, that he is unable to comply with the precise terms of the resolution in question; but if special reasons exist, which may, in the estimation of the Honorable the Legislative Council, render the laws of Michigan of 1834 '35 peculiarly desirable, the Secretary upon receiving a formal intimation to that effect, will use all due diligence in procuring the same; although it is doubted whether they can be procured and transmitted to this place, in time to render their valuable contents available to the legislature of this Territory, within the period prescribed for the continuance of the session.

It is, however, gratifying to be enabled to transmit, herewith, the Laws of Michigan, of 1837, '38, a copy of which is furnished for the use of each house; together with a copy (also for the use of each house) of the following laws, to wit:

1. The Acts and Resolutions of the second session of the twenty fifth Congress of the United States, 1837 '8.
2. The General and Local Laws of Ohio, 1837 '8.
3. The Laws of Maryland, 1837 '8.
4. The Laws of Pennsylvania, 1837 '8.
5. The Laws of New Hampshire, 1838.
6. The Resolves of the State of Maine, 1838.
7. And (as already stated) the Laws of Michigan, 1837 '8.

The Honorable the President of the Council, is respectfully requested to order the transmission of one copy of each of the foregoing compilations to the Honorable the Speaker of the House of Representatives, accompanied by a transcript of this communication, together with an expression of the highly respectful regard with which I have the honor to be, and remain, your very obedient servant,

WM. B. CONWAY,

Secretary of the Territory.

The House then resolved itself into a committee of the whole for the consideration of bill No. 5, H. R. file, entitled "a bill to provide for the safe keeping and management of the Territorial

Library," Mr. Cox in the chair. After some time the committee rose and, by their chairman, reported the bill to the House with an amendment, in which they asked the concurrence of the House.

The House concurred in the report of the committee.

The bill was then ordered to be engrossed for a third reading.

Mr. Summers moved to reconsider the vote of yesterday, giving Jabez A. Burchard, jr. a seat in the House. On putting the question it was decided in the negative.

On motion of Mr. Nowlin,

Resolved, That A. F. Russell be employed to draft twenty six sectional maps of the Territory of Iowa, for the use of the members of this House.

On motion of Mr. Hastings,

The House then took up bill No. 3, H. R. file, entitled "a bill to provide for organizing the Legislative Assembly and compensating its officers," which was read a third time."

On motion of Mr. Nowlin,

The first blank in the third section, was filled with the word "five."

On motion of Mr. Hastings,

The second blank was filled with the word "three."

On motion of Mr. Nowlin,

The blank in the 13th section was filled with the words "twelve hundred."

On motion of Mr. Nowlin,

The blank in the 14th section was filled with the words "two hundred."

Mr. Burchard asked the unanimous consent of the House to insert a substitute for section 11, which was agreed to. The bill was then passed and the title agreed to.

On motion the House adjourned.

Friday, November 23, 1838.

Mr. Summers presented the petition of Sarah East, praying to be divorced from her husband, Hardman E. W. East; which was referred to the following select committee, viz: Messrs. Summers, Toole, Roberts, Bailey, and Hastings.

Mr. Coop presented the petition of sundry citizens of Henry county, praying for the establishment of a Territorial road commencing at the city of Burlington, and running to Iowa city on the Des Moines river; which was referred to the following select committee, viz: Messrs. Beeler, Coop, Grimes, Porter, and Blair.

Mr. Beeler, from the committee to whom was referred the subject of drafting a memorial to Congress, for the extinguishment of the Indian title to lands within this Territory, reported a memorial on that subject; which was read and adopted, and is as follows:

To the Honorable the Senate and House of Representatives of the United States, in Congress assembled.

The memorial of the Legislative Assembly of the Territory of Iowa, on behalf of their constituents respectfully represents: that the interests of the United States, and of the Territory of Iowa, require, at this time, a course of appropriate measures to be pursued, calculated to extinguish the claim of the Indians (more particularly the Sacs and Foxes,) to a portion of their Territory lying upon the borders of our western frontier, and within the limits of our territorial boundaries.

The continuance of these few savages within our territorial limits, who claim so large a tract of the best soil, not only circumscribes, in its practical effects, the usefulness of the privileges we enjoy as free and independent citizens of the Territory, but tends materially to impede the improvement and navigation of our navigable rivers, which is essential to the prosperity of our citizens, and in many instances jeopardizes the peace and tranquility of our frontier, which is our right and duty to secure. It is evident that, although the Indians within our organic boundaries, have been supported by large annuities, although their game has greatly decreased, yet agricultural pursuits are almost entirely neglected; and thus the large extent of country they yet claim, is not only unprofitable to them, but by its contiguity to our settlements, is calculated to retard the population of our Territory, the revenues of the general government, and the prosperity of our inhabitants. Your memorialists will not fatigue your honorable body, with detailing the evils which will necessarily follow the longer continuance of the Indians in the possession of their lands east of the Missouri river, but they feel a confidence in saying that humanity dictates their immediate removal from a place, where they are exposed to many evils, and where they may be induced to resort to every species of imposition. The speedy concentration of the Indian tribes, within the Territory appropriated and set apart for them by the wisdom of Congress, in the opinion of your memorialists, offers the only practicable method of diverting them from indolent and vicious habits, to which, by their vicinity to our population, they are unhappily inclined.

Deeply impressed with the truth and force of these considerations, we respectfully ask the attention of the general government to this subject, and request the immediate extinguishment of the Indian title to occupancy within our Territory.

Resolved, That his Excellency the Governor be requested to transmit a copy of the foregoing memorial to the president of the Senate, and speaker of the House of Representatives, and to our delegate in Congress, and that he be requested to use his earnest endeavors, for the speedy attainment of this object.

On motion of Mr. Summers,

Resolved, That the Secretary of the Territory be authorized to pay Samuel R. Murray his per diem, during his attendance in this House, and mileage to and from the same.

On motion of Mr. Roberts,

Resolved, That the committee on roads and highways, be instructed to inquire into the expediency of locating a territorial road on

the post route from Davenport in Scott county, through Centerville, to Rochester in Cedar county.

On motion of Mr. Bankson,

Resolved, By the Council and House of Representatives, That the thanks of the Assembly of Iowa, be presented through the Secretary of said Territory to Dr. O. Fairchild of Cincinnati, Ohio, for his valuable presents of maps to the Library of said Territory.

On motion of Mr. Swan,

Resolved, That a select committee of five be appointed to inquire into the expediency of memorializing Congress for the passage of a pre-emption law on mineral lands whenever the same may be brought into market, giving to the miner the same pre-emption on a mineral lot of ten acres as is now enjoyed by pre-emptioners on public lands.

Messrs. Swan, Nowlin, Bankson, Cox, and Roberts were appointed said committee.

On motion of Mr. Hastings,

Resolved, That a select committee of three be appointed to draft a memorial to Congress, for an appropriation in money, or land, to be made for the erection of a Penitentiary in the Territory of Iowa. Messrs. Hastings, Delashmutt and Taylor, were appointed said committee.

Mr. Hastings, from the committee appointed to prepare a bill regulating interest on money, made report of bill No. 7, H. R. file, entitled "A bill regulating interest on money, and repealing the usury law now in force in the Territory of Iowa," which was read a first time and ordered to be printed.

On motion of Mr. Nowlin,

Resolved, That hereafter all bills, previous to a second reading, shall be printed unless otherwise directed by the House.

Mr. Bankson asked the unanimous consent of the House, to introduce bill No. 8, H. R. file, entitled "A bill to fix the time for the first session of the Supreme Court of the Territory of Iowa, and for other purposes," which was granted; the bill was then read a first and second time and considered in committee of the whole, Mr. Frierson in the chair. After some time, the committee rose, and by their chairman, reported the bill to the House without amendment.

The House concurred in the report of the committee, and the bill was ordered to be engrossed for a third reading.

The House resolved itself into committee of the whole for the consideration of bill No. 6, H. R. file, entitled "A bill providing for the establishment of Common Schools," Mr. Grimes in the chair. After some time the committee rose, and by their chairman, reported the bill to the House with sundry amendments, in which they asked the concurrence of the House. The House concurred. On motion of Mr. Hastings, the bill was laid upon the table.

Mr. Grimes gave notice that he should, on to-morrow, or some future day, introduce a bill to change seats of justice in this Territory.

Messrs. Grimes, Hastings, and Parker, were appointed a committee to bring in the bill.

Mr. Frierson asked leave to introduce a bill, at some future day,

to amend an act of the Legislature of Wisconsin, approved December 7th 1836, entitled "An act to locate and establish a territorial road west of the Mississippi;" leave was granted, and Messrs. Frierson, Bankson, and Brierly were appointed the committee to bring in said bill.

Mr. Hastings gave notice that he should, on some future day, bring in a bill to provide for the sale of the quarter sections of the public lands on which county seats are located in this Territory.

Messrs. Hastings, Swan and Parker, were appointed the committee to prepare said bill.

Mr. Price gave notice that he should at some future day, introduce a bill concerning water crafts found adrift, lost goods, and stray animals.

Messrs. Price, Toole and Hall, were appointed the committee to prepare said bill.

Mr. Hall gave notice that he should at some future day bring in a bill relating to divorces, and for other purposes.

Messrs. Hall, Grimes and Nowlin, were appointed the committee to prepare the bill.

Mr. Nowlin moved that a standing committee on engrossments be appointed, when on putting the question it was decided in the negative.

Mr. Nowlin from the committee on territorial affairs, reported bill No. 9, H. R. file, entitled "A Bill for the location of county seats, which was read a first time.

On motion of Mr. Nowlin,

Resolved, That the standing committee on enrollments be required to examine all engrossed bills, and make report to this House.

Mr. Summers from the committee on roads and highways, reported bill No. 10, H. R. file, entitled "A Bill to authorize Aaron Usher and Thomas M. Groom, to establish a ferry across the Mississippi river," which was read a first time.

On motion of Mr. Grimes,

The memorial to the Congress of the United States, on the subject of furnishing the inhabitants of the Territory with three six pound brass pieces of cannon, and other arms and munitions of war, and for the establishment of a depot for the same—adopted by the Council, was taken up considered and concurred in.

On motion the House adjourned until 2 o'clock, P. M.

2 O'CLOCK, P. M.

On motion of Mr. Beeler,

Resolved, By the House of Representatives, that during the present session, the Chief Clerk shall be viewed as the responsible officer of this House, and so soon as petitions, resolutions or other matter be referred to a committee, and noted on his journal, the same shall be handed to the first named member of the committee to whom the reference has been made, and that he be required to inspect, and report to this House in what manner the duties of the various Clerks under his control, discharge their duties, and report what further regulations if any are necessary.

On motion of Mr. Hastings,

The House took up bill No. 4, H. R. file, entitled "A Bill regulating criminal proceedings," which was read a third time.

Mr. Grimes moved to fill the blank in the first section, with "the first day of January next," which was agreed to.

On motion of Mr. Hastings,

The House took up bill No. 2, H. R. file, entitled "An Act to make valid and good in law the acts of Robert G. Roberts, done and performed by him, as a justice of the peace in and for the original county of Du Buque, in the Territory of Wisconsin, now Iowa."

The bill was read a third time and passed, and the title agreed to.

On motion of Mr. Frierson,

The House took up bill No. 5, H. R. file, entitled "A Bill to provide for the safe keeping, and management of the Territorial Library."

The bill was read a third time, and passed, and the title agreed to.

On motion the House adjourned.

Saturday, November 24, 1838.

On motion of Mr. Summers,

Resolved, That a select committee be appointed to examine the returns of an election held in Scott county, on the first Monday in August last, in compliance with a law approved June 23d 1838, and report to this House whether Davenport or Rockingham received a majority of votes for county seat.

Messrs. Summers, Burchard, Nowlin, Grimes and Coop, were appointed said committee.

On motion of Mr. Nowlin,

Resolved, That all acts reported by the judiciary committee from the laws of Wisconsin, shall be considered in committee of the whole, and shall pass to the third reading.

On motion of Mr. Swan,

Resolved, That Messrs. Russell and Reeves, publishers of the laws passed at this session, be required to furnish for the use of this Territory 2000 copies; that they prefix to each copy the Constitution of the United States, the Declaration of Independence, the Organic law of the Territory of Iowa, and the Ordinance of 1787, respecting the North West Territory.

On motion of Mr. Coop,

Resolved, That the committee on roads and highways be instructed to inquire into the expediency of memorializing Congress, for an appropriation to build a bridge across Big Cedar creek, where the road leading from Fort Madison to Mt. Sterling, by way of Salem, crosses said creek.

On motion of Mr. Beeler,

Resolved, That the committee on the Judiciary be instructed to

inquire into the expediency of memorializing Congress upon the subject of extending the jurisdiction of justices of the peace to the amount of one hundred dollars in civil actions; and that said committee be instructed to revise the statutes now in force in relation to the duties of justices of the peace and constables, so as to compile all of said acts in one, and also, to inquire into the expediency of giving jurisdiction to said justices in their respective counties in all civil suits, although such debt or demand may have been originally over fifty dollars and reduced below that sum by fair credits, saving where executors and administrators are parties.

Mr. Summers from the committee on roads and highways, reported bill No. 11, H. R. file, entitled "An Act locating a territorial road from the town of Fort Madison, to the Indian agency," which was read a first time.

Mr. Summers from the same committee reported bill No 12, H. R. file, entitled "An Act to locate and establish a territorial road, from the north side of the mouth of Iowa river, via Wappello, to Mount Pleasant," which was read a first time.

Mr. Beeler, from the select committee, reported bill No. 13, entitled "A Bill to establish a territorial road from Burlington, in Des Moines county, to Iowa city, on the Des Moines river," which was read a first time.

Mr. Summers, from the committee on roads and highways, reported bill No 14, H. R. file, entitled "A Bill to locate and establish a territorial road from the town of Bloomington, to the town of Napoleon, via West Liberty," which was read a first time by its title.

On motion of Mr. Grimes,

The rule respecting printing, was suspended in reference to said bills.

Mr. Summers from the same committee reported bill No. 15, H. R. file, entitled "A Bill to locate and establish a territorial road from Burlington, to Du Buque, via Black Hawk, Bloomington, Wyoming, mouth of Pine, Buffalo, Rockingham, Davenport, Parkhurst, Elizabeth city, Camanche, New York, Lyons, Charleston, and Bellview," which was read a first time, and on motion of Mr. Hastings laid upon the table.

Mr. Summers from the same committee, made the following report:

The committee on roads and highways, to whom was referred the resolution instructing them to inquire into the expediency of establishing a territorial road, as near as practicable, on the line dividing townships 69 and 70, from Burlington, Des Moines county, through Keasauqua, in Van Buren county, to the line of the State of Missouri, having had the same under consideration, and believing it to be inexpedient, asks to be discharged from the further consideration thereof.

The committee were accordingly discharged.

Mr. Grimes, from the committee on the Judiciary, reported bill No 16, H. R. file, entitled "A Bill to provide for the election of county treasurers, and to define their duties," which was considered in committee of the whole, Mr. Hall in the chair. After some time the committee rose and by their chairman reported the bill to the

House with several amendments, in which they asked the concurrence of the House.

The House concurred in the report of the committee.

On motion of Mr. Nowlin,

The several rules were suspended—the bill passed and the title agreed to.

Mr. Grimes, from same committee, reported bill No. 17, H. R. file, entitled "A Bill organizing a board of county commissioners in each county in this Territory," which was considered in committee of the whole, Mr. Hastings in the chair. After some time the committee rose, and by their chairman reported the bill to the House with several amendments, in which they asked the concurrence of the House. The House concurred.

On motion of Mr. Grimes,

The several rules were suspended, the bill passed, and the title agreed to.

On motion of Mr. Bankson,

Bill No. 8, H. R. file, entitled "A Bill to fix the first session of the Supreme Court of the Territory of Iowa, and for other purposes," was read a third time, passed and title agreed to.

Mr. Grimes, from the committee on the Judiciary, reported bill No. 18, H. R. file, entitled "A Bill to provide for laying out and opening territorial roads," which was considered in committee of the whole, Mr. Nowlin in the chair. After some time the committee rose, and reported the bill to the House with amendments, in which they asked the House to concur. The House concurred in the report of the committee.

On motion of Mr. Nowlin,

The several rules were suspended, the bill passed and the title agreed to.

Ordered that said bills be sent to the Council for concurrence.

Mr. Price from the committee on enrollments reported bill No. 3, H. R. file, entitled "An Act to provide for organizing the Legislative Assembly, and compensating its officers," as correctly enrolled.

The following message was received from the Council by their Secretary, Mr. Wallace.

Mr. Speaker,—

I am instructed by the Council to inform the House of Representatives that they have concurred in the resolution of the House respecting the printing as reported to the Council yesterday, also that they have adopted the following resolution:

Resolved, That the seal submitted to the Council by the Secretary of the Territory, be adopted by the Council as the great seal of the Territory of Iowa.

And have instructed me also to present to the House of Representatives the seal with impressions upon wax and paper as received from the Secretary of the Territory, in which resolution they ask the concurrence of the House.

And then he withdrew.

The House adjourned until 2 o'clock, P. M.

2 O'CLOCK, P. M.

Mr. Grimes, from the committee on the Judiciary, reported bill No. 19, H. R. file, entitled "A Bill to repeal certain acts now in force in this Territory, which was read a first time."

Mr. Bailey asked leave to introduce at some future day bills of the following titles, viz: A bill to locate and establish a territorial road from Keokuk on the Mississippi river, to Iowa city, on the Des Moines river; and A bill fixing the time for the annual meeting of the Legislative Assembly of Iowa. Leave was granted, and Messrs. Bailey, Burchard and Nowlin, were appointed a committee to prepare the bills.

Mr. Swan from the committee on Incorporations, made the following report:

The committee on Incorporations, to whom was referred the petition of sundry citizens of Scott county, praying that the charter for a ferry across the Mississippi, of John Wilson, be declared forfeited, beg leave to report, that having had the same under consideration, it is inexpedient to grant the prayer of said petitioners, and ask to be discharged from the further consideration of the same.

The committee were discharged.

Mr. Hastings gave notice that he should at some future day bring in A bill to incorporate the Muscatine Hydraulic Company.

Messrs. Hastings, Grimes and Hall, were appointed a committee to prepare the bill.

The House adjouaned.

Monday, November 26, 1838

Mr. Summers presented the petition of sundry citizens of Clinton county, praying that a charter may be granted to William Hogan to establish and keep a ferry across the Mississippi river, at the town of Lyons in said county, which was referred to the committee on Roads and Highways.

Mr. Cox presented the petition of sundry citizens of Bellview, praying that a charter may be granted to J. S Kirkpatrick to establish and keep a ferry across the Mississippi river, at the town of Bellview, in the county of Jackson, which was referred to the committee on Roads and Highways.

Mr. Grimes from the committee on the Judiciary, reported bill No. 20, H. R. file, entitled "a bill relative to limited partnerships," which was considered in committee of the whole, Mr. Patterson in the chair. After some time the committee rose, and, by their chairman, reported the bill to the House with an amendment, in which they ask the concurrence of the House.

On motion of Mr. Nowlin,

The concurrence of the House was postponed until to morrow.

Bill No. 7, H. R. file, entitled "a bill regulating interest on mo-

ney and repealing the usury laws now in force in the territory of Iowa," was read a second time and considered in committee of the whole, Mr. Parker in the chair. After some time spent therein, the committee rose and reported the bill to the House without amendment, and asked the concurrence of the House. The House concurred.

Mr. Beeler moved to strike out all after the enacting clause, and insert a substitute, which he submitted.

On this question the yeas and nays were called for and were as follow:

Yeas—Messrs. Bankson, Bailey, Beeler, Blair, Burchard, Coop, Delashmutt, Frierson, Grimes, Hall, Summers, Swan, Temple, Thornton and Toole—15.

Nays—Messrs. Brierly, Cox, Hastings, Nowlin, Patterson, Parker, Price, Roberts, Taylor and Wallace, Sp'r—10.

So the question was decided in the affirmative.

Mr. Cox moved that the bill and the substitute be committed to Messrs Hastings, Beeler and Nowlin, as a select committee.

On this question the yeas and nays were called for, and were as follow:

Yeas—Messrs. Bankson, Brierly, Burchard, Coop, Cox, Frierson, Hall, Hastings, Nowlin, Patterson, Parker, Price, Roberts, Swan, Taylor and Wallace, Speaker.—16.

Nays—Messrs. Bailey, Beeler, Blair, Delashmutt, Grimes, Summers, Temple, Thornton and Toole—9.

So the question was decided in the affirmative.

Mr. Price, from the committee on enrolments, reported the following bills as correctly enroled:

A bill relative to pleas in abatement and the abatement of suits by death of parties.

A bill to make valid and good in law the acts of Robert G. Roberts done and performed by him as a justice of the peace for the original county of Du Buque.

A bill to provide for the safe keeping and management of the Territorial Library.

A bill to fix the time for the first session of the Supreme Court of the Territory of Iowa, and for other purposes.

Which were sent to the Council for concurrence.

On motion of Mr. Nowlin,

Bill No. 9, H. R. file, entitled "a bill for the the location of county seats," was read a second time, and considered in committee of the whole, Mr. Roberts in the chair. After some time the committee rose, and reported the bill to the House with sundry amendments, in which they asked the concurrence of the House. The House concurred.

On motion the House adjourned until half past 2 o'clock P M.

HALF PAST 2 O'CLOCK, P. M.

On motion of Mr. Cox,

Resolved, That this House set apart every Friday in each week to discuss the subject of county seats and county lines.

Mr. Bailey, from the select committee appointed for that pur-

pose, reported bill No. 21, H. R. file, entitled "a bill fixing the time for the annual meeting of the Legislative Assembly of Iowa, which was read a first time.

On motion of Mr. Nowlin,

Resolved, By the Council and House of Representatives of the Territory of Iowa, That the seal submitted to the Legislative Assembly, by the Secretary of the Territory, be adopted as the great seal of the Territory of Iowa.

On motion of Mr. Parker,

Resolved, That a select committee be appointed to inquire into the expediency of memorializing Congress to change the law so as to make the sheriffs and justices of the peace elective by the people of the Territory of Iowa.

Messrs Parker, Bankson, Beeler, Taylor and Cox were appointed said committee.

Mr. Parker offered the following:

Resolved, That no member of this House shall call the acts of the members of last year in question in debate, which, on motion of Mr. Grimes, was referred to the following select committee, viz:—Messrs. Grimes, Parker, Hall, Swan and Nowlin.

On motion of Mr. Frierson,

Resolved, That the committee on Roads and Highways, be instructed to inquire into the expediency of establishing a territorial road from Mount Pleasant in Henry county, via Fredonia in Louisa county, to Moscow in Muscatine county.

Mr Frierson asked leave to introduce a bill on to morrow to authorize Charles Warfield, and Joseph Williams, to establish a ferry across the Mississippi river opposite the town of Bloomington in Muscatine county; leave was granted, and

Messrs. Frierson, Hastings and Price, were appointed the committee to prepare the bill.

The following communication was received from the Hon. the Judges of the Supreme Court:

To the Honorable the Speaker of the House of Representatives of the Territory of Iowa:

The committee appointed to prepare such laws as will form a proper code of jurisprudence and practice for the territory, have the honor to present for the consideration of your honorable body a bill, entitled "An act relating to informations in the nature of quo-warranto, and regulating the mode of proceeding therein."

Most respectfully, Yours &c.

CHARLES MASON,
T. S. WILSON,
J. WILLIAMS.

November 26th, 1838.

On motion of Mr. Grimes,

The act alluded to above was read a first time by its title.

On motion of Mr. Hastings,

Bill No. 10, H. R. file, entitled "a bill to authorise Aaron Usher and Thomas M. Groom, to establish a ferry across the Mississippi river," was read a second time, and considered in committee of the

whole, Mr. Summers in the chair. After some time spent therein, the committee rose, and by their chairman reported the bill with sundry amendments, and asked the House to concur. The House concurred and the bill was ordered to be engrossed for a third reading.

On motion of Mr. Nowlin,

The several bills respecting territorial roads were recommitted to the committee on Roads and Highways, with instructions to condense the same in one bill.

On motion the House adjourned.

Tuesday, November 27, 1838.

Mr. Frierson presented the petition of sundry citizens of Muscatine county, praying that a charter may be granted to Joseph Williams and Charles Alexander Warfield, to establish a ferry across the Mississippi river, at the town of Bloomington in said county, which was referred to the select committee appointed on the same subject yesterday.

Mr. Frierson presented the petition of sundry citizens of Muscatine and Louisa counties, praying that a charter may be granted to William Blake and Peter Blake jr., to establish and keep a ferry across the Iowa river at Blake's landing above the forks of the Cedar and Iowa, which was referred to the committee on corporations.

Mr. Summers, from the select committee appointed for the purpose, reported bill No. 24, H. R. file, entitled "A bill to divorce Sarah East from her husband Hardman E. W. East," which was read a first and second time, and considered in committee of the whole, Mr. Swan in the chair. After sometime spent therein the committee rose, and by their chairman, reported the bill to the House with an amendment, in which the House concurred.

Mr. Frierson, from the committee on townships and county boundaries, reported bill No. 25, H. R. file, entitled "A Bill to provide for the incorporation of Townships," which was read a first time.

Mr. Frierson, from the committee appointed for that purpose, reported bill No. 26, H. R. file, entitled "A Bill to authorize Joseph Williams and Charles Alexander Warfield, to keep a ferry," which was read a first time.

Mr. Hall, from the committee appointed for that purpose, reported bill No. 27, H. R. file, entitled "A Bill relative to divorces, and for other purposes," which was read a first time.

The following message was received from the Council, by their Secretary, Mr. Wallace:

Mr. Speaker,—

I am instructed by the Council to inform the House of Representatives, that they have adopted the resolution on the subject of thanks to Dr. O. Fairchild of Cincinnati, and a memorial on the subject of

the extinguishment of the Indian title reported to the Council on Friday last: also, the accompanying resolution of the House of Representatives reported to the Council this morning on the subject of printing the laws, with amendments thereto; in which they ask the concurrence of the House.

The Council have also passed the following bills of the House, entitled as follows:

Bill No. 1, H. R. file, entitled "An Act relative to pleas in abatement, and the abatement of suits by the death of parties, with amendments, in which they ask the concurrence of the House of Representatives: also, bill No. 8, H. R. file, entitled "An Act to fix the time for the first session of the supreme court of the Territory of Iowa, and for other purposes," without amendment. And then he withdrew.

Mr. Toole, from the committee on enrollments, reported bill No. 10, H. R. file, entitled "A Bill to authorize Aaron Usher and Tho's M. Groom, to establish a ferry across the Mississippi river," as correctly engrossed. The bill was then read a third time, passed, and title agreed to.

On motion of Mr. Hastings,

Bill No. 20, H. R. file, entitled "A Bill relative to limited partnerships," was taken up, the report of the committee of the whole concurred in, and the bill ordered to be engrossed for a third reading.

On motion of Mr. Swan,

Bill No. 19, H. R. file, entitled "A Bill to repeal certain acts now in force in this Territory," was read a second time, and considered in the committee of the whole, Mr. Toole in the chair. After some time spent therein, the committee rose and reported the bill to the House with amendments, in which they asked the House to concur.

On this question, the yeas and nays were called for and were as follow:

Yeas—Messrs. Bankson, Bailey, Brierly, Coop, Hastings, Nowlin, Parker, Porter, Roberts, Summers, Swan, Temple, Thornton, Tole, and Mr. Speaker—15.

Nays—Messrs. Beeler, Blair, Burchard, Cox, Frier son, Grimes, and Hall—7.

So the question was decided in the affirmative.

On motion of Mr. Hastings,

Bill No. 1, H. R. file, entitled "A Bill relative pleas in abatement and the abatement of suits by the death of parties," as amended by the Council, was taken up and referred to the committee on the judiciary.

Mr. Temple asked leave to introduce at some future day, "A Bill for the benefit of Mechanics;" leave was granted, and Messrs. Temple, Taylor and Summers, were appointed a committee to prepare the bill.

Mr. Grimes from the committee on the judiciary, reported bill No. 28, H. R. file, entitled "A Bill to provide for the collection of demands against boats and vessels;" which was considered in committee of the whole, Mr. Bankson in the chair. After some time

the committee rose, reported progress, and asked leave to sit again; leave was granted.

Mr. Burchard submitted the following:

Resolved, That Wm. B. Conway, Secretary of the Territory, be requested to prepare a report on the subject of a general system of common school education, and that he report the same to this House if practicable, during the present session, if not, at an early day after the meeting of the next Legislative Assembly.

On taking the question it was decided in the negative.

On motion of Mr. Bankson,

Mr. Nowlin was added to the committee on enrollments.

The House adjourned.

Wednesday, November 28, 1838.

Mr. Parker presented the petition of sundry citizens of Van Buren county, praying that a territorial road may be laid out commencing at Fort Madison and running through West Point, to intersect the road to be laid out from Burlington to Iowa city on the Des Moines river; which was referred to the committee on Roads and Highways.

On motion of Mr. Coop,

Resolved, That the committee on territorial affairs be instructed to inquire into the expediency of enacting a law relative to and concerning those who have settled and made farms on the 16th sections of this territory.

Mr. Toole offered the following:

Resolved, That a select committee be appointed, to draft a memorial to Congress, asking an appropriation of money or land for the improvement of the Iowa river.

Mr. Roberts moved to amend, by including the Cedar fork of Iowa, which was agreed to. The question then recurred on the resolution as amended, and was decided in the affirmative. Messrs. Toole, Thornton, Burchard, Roberts and Frierson were appointed the committee.

Mr. Beeler offered the following:

Resolved, That the committee on elections be and they are hereby instructed to inquire into the expediency of changing the present mode of voting, so to require all elections to be by viva voce vote.

Mr. Cox moved to amend by adding, "also the Legislative Assembly shall vote viva voce in all elections for officers," which was agreed to. The resolution was then adopted as amended.

On motion of Mr. Hastings,

Ordered, That the standing committee on Internal Improvements be discharged from the further consideration of the subject of a memorial to Congress for an appropriation for the improvement of the Cedar fork of the Iowa river.

Mr. Nowlin from the committee on enrolments, reported that he had this day presented to the Governor, and obtained his approval to an act fixing the time for the first session of the Supreme Court of the Territory of Iowa, and for other purposes.

On motion of Mr. Nowlin,

Resolved by the Council and House of Representatives of the Territory of Iowa, That when an act is presented to the Governor for his approval, he shall, within reasonable time thereafter, make known to the house in which said act may have originated, of his approval thereof, or if not approved of, the act shall be returned with his objections thereto.

On motion of Mr. Bailey,

Bill No. 21, H. R. file, entitled "a bill providing for the annual meeting of the Legislative Assembly of Iowa," was read a second time and considered in committee of the whole, Mr. Bailey in the chair. After some time the committee rose, and reported the bill to the House, with amendments, in which they asked the concurrence of the House.

On this question the yeas and nays were called for, and were as follow:

Yeas—Messrs. Bailey, Brierly, Burchard, Delashmutt, Grimes, Hall, Hastings, Nowlin, Patterson, Parker, Porter, Price, Summers, Taylor, Temple and Thornton—16.

Nays—Messrs. Bankson, Beeler, Blair, Coop, Cox, Frierson, Roberts, Swan, Toole and Mr. Speaker—10.

So the House concurred in the report of the committee.

The bill was then ordered to be engrossed for a third reading.

The following message was received from the Council by the Secretary, Mr. Wallace:

Mr. Speaker—

The Council has passed the following resolution, and appointed Mr. Lewis as one of the committee on the part of the Council.

Resolved, By the Council and House of Representatives of the Territory of Iowa, that a committee of one member of the Council, and two members of the House of Representatives shall be appointed to repair forthwith to the Miners' Bank of Du Buque, in this Territory and then and there proceed to examine all the books, papers, accounts, certificates and the amount of silver, gold and bankable paper and other money in the vaults of said bank, also, the amount of money on deposit, and every other act, or acts, of said bank which relates or may relate in any manner to the fiscal management of the same. And the said committee who shall be appointed under this resolution are hereby empowered and authorized to examine under oath to be administered by the chairman of said committee, the president, cashier or any other officer of said bank upon any matter which may relate in any way to the management of the same, and if the said president, cashier or other officer to whom an oath shall be administered as aforesaid shall swear or affirm falsely, in answer to any interrogatories propounded by said committee, or to any affidavit required by said committee, such president, cashier, or other officer shall be deemed to have committed the crime of perjury, and shall be punished as the laws of this

Territory require. And the said committee shall have power to send for persons and papers and examine such person or persons under oath, administered as aforesaid, and after such committee have examined the situation and affairs of said Bank as herein directed, they shall as soon as possible report the same to the Council and House of Representatives of this Territory. And then he withdrew.

Bill No. 22, H. R. file, was read a second time and considered in committee of the whole, Mr. Beeler in the chair. After some time the committee rose and reported the bill to the House without amendment, and asked the House to concur; the House concurred, and the bill was ordered to be engrossed for a third reading.

The resolution of the House on the subject of printing the laws, as amended by the Council, was taken up and considered, and the question being on concurring with the amendments of Council, the yeas and nays were called for, and were as follow:

Yeas—Messrs. Bankson, Bailey, Blair, Coop, Cox, Frierson, Hastings, Nowlin, Porter, Price, Swan—11.

Nays—Messrs. Beeler, Brierly, Burchard, Delashmutt, Grimes, Hall, Patterson, Parker, Roberts, Summers, Taylor, Temple, Thornton, Toole, and Mr. Speaker—15.

So the House refused to concur.

On motion of Mr. Beeler,

Ordered that the House adhere to the original resolution.

Mr. Hastings moved that the House adjourn until two o'clock, P. M.

Mr. Beeler moved to amend by adjourning untill 10 o'clock to morrow;

On which question the yeas and nays were called for and were as follow:

Yeas—Messrs. Bankson, Bailey, Beeler, Brierly, Burchard, Delashmutt, Grimes, Patterson, Price, Roberts, Summers, Temple, Toole, and Wallace, Speaker—14.

Nays—Messrs. Blair, Coop, Cox, Frierson, Hall, Hastings, Nowlin, Parker, Porter, Swan, Taylor, and Thornton—12.

So the amendment was agreed to, and the House adjourned.

Thursday, November 29, 1838.

Mr. Frierson presented the petition of sundry citizens of Bloomington, praying that said town may be incorporated by the name of Muscatine, which was referred to the committee on corporations.

Mr. Coop, from the select committee appointed for that purpose, reported bill No. 23, H. R. file, entitled "A Bill to divide the county of Henry, and establish the county of Jefferson," which was read a first time by its title.

Mr. Summers, from the committee on roads and highways, reported bill No. 29, H. R. file, entitled "A Bill to authorize J. S. Kirkpatrick to establish and keep a ferry across the Mississippi river,

at the town of Belleview," which was read a first time.

Mr. Swan, from the committee on corporations, reported bill No. 30, H. R. file, entitled "A Bill to authorize Wm. Blake and Peter Blake, jr., to establish a ferry across the Iowa river," which was read a first time.

Mr. Frierson, from the committee on Internal Improvements, to whom was referred a resolution of this House, instructing said committee to enquire into the expediency of memorializing Congress on the subject of an appropriation for the Des Moines river, have had the same under consideration, and now ask leave to submit the following report:

That by an act of Congress, approved July 7th, 1838, one thousand dollars was appropriated for the survey of the Des Moines and Iowa rivers, with a view to the improvement of their navigation; and the committee have learned that an engineer, under the direction of the Secretary of War, is now in the west, charged with the execution of this duty, and that proper surveys of both these rivers will probably be completed early in the spring. Until this survey is made, the committee can have no correct data, upon which to base the estimate in asking for an appropriation for the improvement of the Des Moines river, and therefore ask leave to be discharged from the further consideration of the resolution.

The report of the committee was concurred in.

Mr. Grimes, from the committee on the judiciary, to whom was committed bill No. 1, H. R. file, entitled "A Bill relative to pleas in abatement, and the abatement of suits by the death of parties," with the amendments of Council, reported the same back to the House, and asked the House to concur. The House concurred.

On motion of Mr. Bankson,

The resolution of the Council, sent up yesterday for concurrence, on the subject of investigating the Miners' Bank of Du Buque, was taken up and concurred in, and Messrs. Nowlin and Hall, were appointed the committee on the part of the House.

On motion of Mr. Frierson,

Bill No. 15, H. R. file, entitled "A Bill to establish a territorial road from Burlington, to Du Buque," was taken up and considered in committee of the whole, Mr. Brierly in the chair. After some time, the committee rose and reported the bill back to the House without amendment.

On motion of Mr. Taylor,

The bill was re-committed to the committee on roads and highways.

Bill No. 26, H. R. file, entitled "A Bill providing for the establishment of common schools," was taken up, and ordered to be engrossed for a third reading.

The House then resolved itself into a committee of the whole for the consideration of bill No. 28, H. R. file, entitled "A Bill to provide for the collection of demands against boats and vessels," Mr. Bankson in the chair. After some time, the committee rose and reported the bill to the House with amendments, in which the House concurred.

The bill was then ordered to be engrossed for a third reading.

The following message was received from the Council by their Secretary, Mr. Wallace:

Mr. Speaker,—

The resolution of the House on the subject of the printing of the laws, and which was amended in Council, to which amendment the House have disagreed I am instructed to inform the House that the Council adhere to their amendments, and have appointed Messrs. Payne and Inghram, a committee of conference on the part of the Council. And then he withdrew.

Mr. Price, from the committee on enrollments, reported the following bills as correctly engrossed, viz: bills Nos. 20 and 21, H. R. file.

The said bills were then taken up, read a third time, passed, and titles agreed to.

Bill No. 27, H. R. file, entitled "A Bill relative to divorces, and for other purposes." was read a second time, and considered in committee of the whole, Mr. Burchard in the chair. After some time, the committee rose, reported progress, and asked leave to sit again. Leave was granted.

The following message was received from the Council by their Secretary, Mr. Wallace:

Mr. Speaker,—

The Council have passed bills of the following titles, viz:

An act regulating the mode of taking depositions, and to provide for the perpetuation of testimony; also

An act to provide for laying out and opening territorial roads.

In which they ask the concurrence of the House of Representatives. And then he withdrew.

On motion, the House adjourned until 2 o'clock, P. M.

2 O'CLOCK, P. M.

On motion of Mr. Grimes,

A committee of conference was appointed to act in conjunction with the committee on the part of the Council, on the disagreeing vote of the two Houses, on the subject of printing the laws.

Mr. Grimes and Mr. Taylor were appointed the committee.

The following message was received from the Council by their Secretary, Mr. Wallace:

Mr. Speaker,—

I am instructed by the Council to inform the House of Representatives, that they have concurred in the resolution of the House relative to the presentation of acts &c. to the Governor for his approbation. And then he withdrew.

Mr. Toole asked leave to introduce a bill on to-morrow, to establish the boundary lines of Louisa county, and to provide for the location of the seat of justice in said county; leave was granted, and Messrs. Toole, Hastings, Temple, Frierson and Blair, were appointed a committee to prepare the bill.

Bill No. 27, H. R. file, entitled "A Bill relative to divorces, and for other purposes," was again taken up and considered in committee of the whole, Mr. Burchard in the chair. After some time

spent therein, the committee rose, and reported the bill to the House with amendments, in which the House concurred. The bill was then referred to the committee on the Judiciary.

On motion of Mr. Hastings,

Bill No. 2, Council file, was read a first and second time and referred to the committee on the Judiciary.

Bill No 26, H. R. file, entitled "A Bill to authorize Joseph Williams and Charles A. Warfield, to establish and keep a ferry, was read a second time and considered in committee of the whole, Mr. Coop in the chair. After some time the committee rose, and reported the bill to the House with amendments, in which the House concurred, and the bill was ordered to be engrossed for a third reading.

Mr. Bailey gave notice that he should at some future day introduced "A Bill to prevent trespass on School Lands." Messrs. Bailey, Bankson and Roberts, were appointed a committee to prepare the bill.

Bill No. 3, Council file, entitled "A Bill to provide for laying out and opening territorial roads" was read a first and second time and considered in committee of the whole, Mr. Cox in the chair. After some time spent therein the committee rose and reported the bill to the House without amendment in which the House concurred.

On motion of Mr. Beeler,

Ordered that the bill be laid upon the table.

The House adjourned.

Friday, November 30, 1838.

Mr Porter presented the petition of sundry citizens of Van Buren and Henry counties, praying that a Territorial road may be laid out, commencing at the town of Van Buren, and running to the town of Mount Pleasant in Henry county, which was referred to the committee on Roads and Highways.

Mr. Hastings presented the petition of sundry citizens of Muscatine county, praying that a charter may be granted to William Blake and Peter Blake, jr. to keep a ferry across the Cedar river at Blake's landing, which was referred to the committee on corporations.

Mr. Bailey from the committee appointed for that purpose, reported bill No. 31, H. R. file, entitled "a bill to prevent trespass on school lands," which was read a first time.

Mr. Parker from the committee appointed for that purpose, reported a memorial to the Congress of the United States, praying that the organic law may be so amended, that sheriffs and justices of the peace, may be elected by the people, which was read and adopted.

To the Honorable, the Senate and House of Representatives in Congress convened,

The memorial of the Legislative Assembly of Iowa, would respectfully represent, That,

By an act of Congress approved June 12th, 1838, entitled "an act to divide the territory of Wisconsin and to establish the Territorial Government of Iowa," it is provided that all sheriffs and justices of the peace in the said Territory of Iowa, shall be appointed by the Governor, by and with the advice and consent of the Legislative Council.

Your memorialists would respectfully beg leave to represent by this mode of appointment these offices will not unfrequently be filled by individuals, who are not the choice of the community in which they may be called to officiate; the sheriffs and justices of the peace are officers whose official intercourse with the people, is so frequent, that, in the opinion of your memorialists, the utmost confidence should be reposed in them by the people among whom they act, and this cannot be the case, as your memorialists believe, if individuals should be appointed who are not the choice of the community in which they live. Where individuals are appointed on application by petition to the executive of the Territory, improper persons will often be appointed, because of the ease with which petitions of this kind can always be got up, and the impossibility of discrimination on the part of the Executive.

The difficulty would, in the opinion of your memorialists, be obviated by so amending the aforesaid act of June 12th, 1838, as to give the election of sheriffs and justices of the peace directly to the people of the several counties in the Territory of Iowa, and as in duty bound, your memorialist will, &c.

Resolved, by the Council and House of Representatives of the Territory of Iowa, That his Excellency, Robert Lucas, Governor of this Territory, and Col. William W. Chapman, our delegate in Congress, are hereby instructed to use their best exertions to effect the objects prayed for in the foregoing memorial.

Mr. Hastings from the committee appointed for that purpose, reported a memorial to the Congress of the United States, praying that an appropriation of land may be made for the erection of a Penitentiary, which was ordered to be printed.

To the Senate and House of Representatives of the United States in Congress assembled.

The Legislative Assembly, the Council and House of Representatives of the Territory of Iowa, would respectfully represent to your honorable body, that the Territory of Iowa, inhabited by a population of more than thirty thousand souls who have emigrated from foreign States, and from nearly every section of the United States, is now destitute of all means of enforcing those criminal laws which prescribe imprisonment as a punishment for crime.

That from the want of proper means of punishment the penal laws prescribing imprisonment have no practical effect, and are held up to derision and contempt by the lawless and vicious, while the wrongs and injuries of the innocent are unredressed.

Your memorialists, while they hold in high consideration and es-

teem the liberality of Congress, in extending to this Territory the invaluable favors hitherto granted, would respectfully suggest to your honorable body that an appropriation of lands for the erection of a penitentiary would conduce more to the existence of order and law over this country, in which we ourselves, as well as the General Government are so deeply interested, than any other appropriation that could at present be granted.

Your memorialists would further represent, that almost all the real property here is owned by the United States, and not taxable, and hence arises the impossibility of establishing the penitentiary system, which experience has shown efficient as a means of punishment and reform, without aid and assistance from the general government.

And therefore your memorialists would respectfully pray that an appropriation may be made at the present session of Congress, of seventy two sections of public lands, to be appropriated for the erection and construction of a penitentiary, and that three commissioners to be appointed by the Council and House of Representatives of this Territory shall be authorized to select said lands in any part of this territory, where the Indian title has been extinguished, and where such selections would not interfere with the rights of settlers on the public lands, and also that such selections may consist of sections, half sections, or quarter sections. And, as in duty bound, your memorialists would ever pray, &c.

Mr. Temple from the committee appointed for that purpose, reported bill No. 32, H. R. file, entitled "a bill for the benefit of mechanics," which was read a first time.

Mr. Grimes, from the committee of conference, reported that the committee had agreed to the original resolution of this House, on the subject of printing the laws.

The report of the committee was concurred in.

Mr. Price from the committee on enrolments, reported the following bills as correctly enrolled:

Bill No. 4, H. R. file, entitled a bill regulating criminal proceedings.

Bill No. 10, H. R. file, entitled a bill to authorise Aaron Usher and Thomas M. Groom, to establish a ferry across the Mississippi river.

Bill No. 16, H. R. file, entitled a bill to provide for the election of county treasurers, and to define their duties.

Bill No. 17, H. R. file, entitled a bill organizing a board of county commissioners in each county in the Territory of Iowa.

Bill No. 18, H. R. file, entitled a bill to provide for the laying out and opening territorial roads.

And also as correctly engrossed,

Bill No 22, H. R. file, entitled a bill relating to informations in the nature of quo warranto, and regulating the mode of proceedings thereon.

Bill No. 25, H. R. file, entitled "a bill to provide for the incorporation of townships," was read a second time, and considered in committee of the whole, Mr. Frierson in the chair. After some time, the committee rose and, by their chairman reported the bill to

the House with sundry amendments in which they asked the House to concur.

On this question the yeas and nays were called for, and were as follow:

Yeas—Messrs. Brierly, Burchard, Coop, Cox, Delashmutt, Hastings, Patterson, Porter, Price, Roberts, Taylor and Wallace, Speaker.—12.

Nays—Messrs. Bankson, Bailey, Beeler, Frierson, Parker, Summers, Swan, Temple and Toole—9.

So the House concurred in the report of the committee.

On motion of Mr. Bailey,

The bill was recommitted to the committee that reported it, to be made the order of the day for the 8th of December.

The following message was received from the Council, by their Secretary, Mr. Wallace:

Mr. Speaker,—

The Council have passed a bill of the following title, Council file, "An act relative to promissory notes, bonds, due bills, and other instruments of writing."

They have also adopted the accompanying report and resolution on the subject of seals, &c. in which they ask the concurrence of the House of Representatives.

The committee on the Judiciary, to whom was referred the communication from the Honorable Secretary of the Territory of Iowa, relating to a set of seals engraved for the Territory of Wisconsin, submit the following report:

That they have examined the impressions of the seals submitted by the Secretary, and engraved by Mr. Wm. Wagner, of York, Pennsylvania, and find the same executed with much elegance and classic taste. Your committee deem it absolutely necessary, that a set of seals be engraved for the Territory of Iowa, and therefore recommend the adoption of the following resolution.

Resolved by the Council and House of Representatives of the Territory of Iowa, That the Secretary of the Territory is hereby empowered and authorized to employ Mr. Wm. Wagner, forthwith, to engrave an appropriate seal for the Supreme Court of this Territory; also a seal for the United States' District Court in each county where said court has been or may be organized during the present session of the Legislature; also a seal for the County Commissioners' Court in each organized county, and also a seal for the Probate Courts in each county in this Territory. And the said Wm. Wagner shall receive, for the execution of said seals, the sum of —dollars for each seal to be paid out of any monies in the Territorial Treasury, not otherwise appropriated, when said seals shall be delivered and approved by the Secretary of the Territory.

And then he withdrew.

On motion the House adjourned until 2 o'clock P. M.

2 O'CLOCK, P. M.

On motion of Mr. Porter,

Bill No. 23, H. R. file, entitled "A bill to divide the county of

Henry, and to establish the county of Jefferson," was read a second time, and considered in committee of the whole, Mr. Grimes in the chair. After some time the committee rose, and reported the bill to the House with amendments in which the House concurred.

The bill was then ordered to be engrossed for a third reading.

Bill No. 30, H. R. file was read a second time, and considered in committee of the whole, Mr. Hastings in the chair. After some time spent therein, the committee rose and reported the bill to the House without amendment. The House concurred in the report of the committee, and the bill was ordered to be engrossed for a third reading.

The following communication from the Judges of the Supreme Court was read, and with the bill referred to, ordered to be printed.

BURLINGTON, NOV. 30, 1838.

To the Honorable the Speaker of the House of Representatives of the Territory of Iowa.

SIR,—We have the honor herewith to present for the consideration of the Legislative Assembly of the Territory of Iowa, the bill entitled "an act allowing and regulating writs of attachment."

Yours, very respectfully,

CHARLES MASON,
JOSEPH WILLIAMS,
T. S. WILSON.

On motion of Mr. Grimes, the House adjourned.

Saturday, December 1, 1838.

Mr. Grimes presented the remonstrance of sundry citizens of Muscatine county, against the change of the name of the town of Bloomington, to Muscatine; referred to the committee on corporations.

On motion of Mr. Bankson,

Resolved, That the door-keeper of the House be instructed to keep open the doors of this hall, on each Sabbath and every evening till 9 o'clock during the session, in order to give place for divine worship.

Mr. Bailey from the committee appointed for that purpose, reported bill No. 34, H. R. file, entitled "A bill to establish and locate a territorial road from Keokuk on the Mississippi river, to Iowa city in Van Buren county, which was read a first time.

Mr. Grimes from the committee on the judiciary, reported back to the House bill No. 2, Council file, without amendment. The bill was then read a second time and considered in committee of the whole, Mr. Parker in the chair. After some time the committee rose and reported the bill to the House. The House concurred in the report of the committee and the bill was ordered to be engrossed for a third reading.

Mr. Price, from the committee on enrollments, reported the following bills as correctly enrolled, viz:—No. 21, H. R. file, entitled "A Bill providing for the annual meeting of the Legislative Assembly of the Territory of Iowa; No. 20, H. R. file, entitled "A bill relative to limited partnerships."

Also, the following bills as correctly engrossed, viz:—No. 28, H. R. file, entitled "A bill to provide for the collection of demands against boats and vessels;" No. 6, H. R. file, entitled "A bill providing for the establishment of common schools." which were severally read a third time, passed and titles agreed to; No. 26, H. R. file, entitled "A bill to authorize Joseph Williams and Charles A. Warfield, to keep a ferry," was also reported as correctly enrolled. Mr. Burchard asked and obtained the unanimous consent of the House to amend the bill. The bill was then read a third time, passed and the title agreed to.

On motion of Mr. Hastings,

The House concurred in the resolution of the Council respecting seals for the several courts for the Territory.

Bill No. 4, Council file, entitled "A bill relative to promissory notes, bonds, due bills and other instruments of writing," was taken up and read a first time.

Mr. Swan from the committee on corporations, to whom was referred a petition for a ferry across Cedar river, at Blake's landing, reported as follows: That it is inexpedient to grant a charter for said purpose, and ask to be discharged from the further consideration of the same.

The committee were accordingly discharged.

On motion of Mr. Swan,

Resolved, That the committee on Internal Improvements, be instructed to enquire into the expediency of enacting a general law on the subject of ferries across all streams and rivers in this territory except the Mississippi river, and that they report by bill or otherwise.

Mr. Taylor gave notice that he should on Monday next, bring in a bill subjecting real and personal estates to execution. Messrs. Taylor, Roberts and Blair, were appointed a committee to prepare the bill.

Bill No. 22, H. R. file, entitled "A Bill relating to informations in the nature of quo warranto, and regulating the proceedings thereon," was taken up. Mr. Grimes asked and obtained the unanimous consent of the House to amend the bill by striking out the words "military officers" wherever they occur.

The bill was then passed and titled agreed.

On motion the House adjourned.

Monday, December 3, 1838.

Mr. Grimes presented the petition of sundry citizens of Scott county, praying that a charter may be granted to Samsel Barkley, to keep a ferry across the Mississippi river, at the town of Davenport, which was referred to the committee on corporations.

Mr. Burchard presented the petition of sundry citizens of Scott, Cedar and Linn counties, praying that a territorial road, may be laid out from Davenport, to Big Linn grove, which was referred to the committee on roads and highways.

Mr. Summers presented the petition of sundry citizens of Scott county, praying that a charter may be granted to A. H. Davenport and John H. Sullivan, to keep a ferry across the Mississippi river, which was referred to the committee on roads and highways.

On motion of Mr. Cox,

Resolved, By the Council and House of Representatives of the Territory of Iowa, that the post master at Davenport, Scott county, be and he is hereby authorized to have the mail from Davenport, to Du Buque, conveyed in two horse post coaches, twice a week during the present session of the Legislative Assembly, and that the post master general of the United States, be memorialized by the Legislative Assembly, to allow and pay the extra expense that may be incurred under this resolution.

Mr. Summers from the committee on roads and highways, reported bill No. 35, H. R. file, entitled "A Bill to authorize Wm. Hogan, to establish and keep a ferry across the Mississippi river at the town of Lyons," which was read a first time.

Mr. Grimes, from the committee on the judiciary, reported bill No. 36, H. R. file, entitled "A Bill fixing the terms of the Supreme and District courts of the Territory of Iowa, and for other purposes," which was read a first and second time, and considered in committee of the whole, Mr. Roberts in the chair. After some time the committee rose and reported the bill to the House with amendments in which the House concurred.

On motion of Mr. Cox,

The bill was re-committed to the committee on the judiciary.

Mr. Swan, from the committee appointed for that purpose, reported "A memorial to the Congress of the United States on the subject of granting to miners the right of pre-emption to mineral lots," which was read and ordered to be printed, and is as follows:

To the Senate and House of Representatives of the United States in Congress assembled.

The memorial of the Council and House of Representatives, of the Territory of Iowa, respectfully represents:

That whereas, a law of Congress was passed at its last session, granting the right of pre-emption to settlers on the public lands, under the regulations and restrictions therein provided, but the said law does not grant to the miners, who were the PIONEERS to commence operations in the Territory, any right of pre-emption to their lots, in case the mineral lands should be offered for sale.

Your memorialists beg leave therefore to represent, that the pre-emption law is unequal in its effects, so far as the mineral interest is brought into competition with that of the farmer. It will be evident to your honorable body, that the law to be just, should be equal in its benefits to the different classes of the settlers within the Territory that may be affected thereby; and as the persons who have been engaged in mining, during several years in the northern part of this Territory, and who have in many cases, expended *large sums* without deriving any benefit, have not, as a general rule, made those improvements as to entitle them to a pre-emption under the existing law, they would be left without the means of obtaining their unquestionable rights, and without authority to continue the mining operations on their respective lots in case the mineral lands should be brought into market.

Under these circumstances your memorialists, most respectfully solicit that the protecting hand of the Government may be extended to the miners who have devoted so large a portion of their time and labor in developing the mineral resources of Iowa, and particularly in that section of the Territory designated and known as the "Du Buque Mines."

Your memorialists further represent, that, in many cases, very large sums have been expended by the enterprising miner on a single lot of ten acres, the value of which has but recently been made manifest. The mineral riches of the country are brought to view from year to year, and as the practical miner is more or less acquainted with the science of mineralogy, patient and persevering, his operations are continued under numberless difficulties, but with the full persuasion that the liberal government, under which it is his boast to live, will carefully guard his interest, and not permit the speculator or monopolist to deprive him of the small lot of mineral land on which he has bestowed his time, his labor, and his money. Your memorialists confidently hope that justice, the cardinal principle of all free governments, will induce your honorable body to grant to the miner the right of pre-emption to ten acres of land, on which he may have discovered mineral at any time since the year 1833; and that a provision to this effect may be inserted in any law of Congress authorizing the sale of mineral lands. In no case, however, is it desired by your memorialists that the miner should receive a pre-emption for more than one lot; and where two or more persons may claim the same lot, under such law, the conflicting claims to be investigated and the question decided, in conformity with the rules which have been established in other cases of pre-emption under the existing law.

Your memorialists would further respectfully suggest, that the mineral lots should not be sold for less than three dollars per acre, and that all who may avail themselves of such pre-emption, should receive their lots at that price. And in cases where there may be not more than two mineral lots claimed on one quarter section of land, your memorialists also suggest that the said claimants should share the pre-emption right, equally between them, to the remaining part of said quarter section: Provided, however, that such right

shall not in any way interfere with a prior pre-emption right of any other person or persons.

All of which is respectfully submitted, &c.

Mr. Frierson, from the committee on Internal Improvements, reported "A memorial to the Congress of the United States, on the subject of making an appropriation for the survey and improvement of the Wabesipinecon, Maquoketa, Turkey and Skunk rivers, and the Musquetine slough," which was read and concurred in, and is as follows:

To the Senate and House of Representatives of the United States in Congress assembled.

The memorial of the Council and House of Representatives, of the Legislative Assembly, of the Territory of Iowa, would respectfully represent.

That the Territory of Iowa, is bounded on the east, by the broad and beautiful river Mississippi, which being navigable for steam-boats generally about eight months in each year, affords an almost unequalled channel, down which the rich products of the fertile soil and inexhaustible mines of Iowa, may be floated to a distant market, on the confines of the ocean, and along which in return, our enterprising citizens may receive the products, and manufactures of the most distant climes. This majestic river, furnishes all that part of our population, who live near its banks, a great highway for the transportation of their surplus produce, and for the importation of whatever must necessarily be brought from a foreign market. But there are other portions of our Territory, blessed with a soil as fertile, and a population as industrious, as handy and as enterprising as the banks of the Mississippi can possibly boast, which have not at present channels through which they can have access to and communication with the other States and Territories of this confederacy.

Your memorialists believe that it is the policy of the parent government, to extend to Iowa, the same fostering care which has been extended to other Territories, to reach with a protecting hand, every section of this beautiful region and secure to us all the blessings which we derive from benignant skies and a prolific soil. And your memorialists would further state, that Iowa is not only washed on one side by the father of rivers, but she is intersected and crossed in every direction by many valuable streams of surpassing beauty, which seem to have been designed by the bountiful author of nature, as channels down which the inhabitants are to float their surplus products, until they reach that great interior highway of nations—the Mississippi river.

Many of these streams might easily be improved so as to render them extremely valuable for all the purposes of navigation, but your memorialists will, for the present, only call the attention of your honorable body to the following five, viz:

Skunk, Wabesipinecon, Great Maquoketa, Musquetine Slough and Turkey river. Skunk river rises in the same region of country, where the Iowa, Cedar &c. have their sources, and after a course including meanders of more than two hundred miles through one of

the most beautiful and fertile regions of the earth, falls into the Mississippi near the confines of Lee and Des Moines counties, in this Territory. The tract of country through which this river flows, is not watered by any other considerable stream, and consequently its inhabitants can have no other navigable channel by which their heavy products can be exported.

Your memorialists have taken some pains in collecting facts relating to Skunk river, and they are of opinion that if a few snags near the mouth, and within the influence of the back water from the Mississippi were removed, and some other unimportant obstructions overcome, this river could be rendered navigable by slack water or otherwise to the forks thereof, a distance of about one hundred miles including meanders from its mouth.

The Wabesipinicon and Makoqueta, have their sources in the Indian country, near the north west boundary of this Territory, and after meandering through a fine fertile and salubrious region, for one hundred and fifty or two hundred miles, mingle their waters with those of the Mississippi, between the mouth of Fever river and Rock Island. Each of these rivers' in the opinion of your memorialists, can be navigated at favorable seasons, from sixty to eighty miles above their mouths, and with very slight improvements might be rendered valuable highways for the fine and fertile counties which they water.

In the opinion of your memorialists almost all that has been said of the two last streams, will also apply to Turkey river. Like them it is a clear, limpid and beautiful stream, flowing through and watering a most beautiful and fertile country, and like them it could be rendered navigable for most of the year, at a very trifling expense. Nay more, its banks are covered with dense forests of valuable timber, and the lofty hills which overlook its clear blue stream are believed to contain inexhaustible quantities of lead ore.

Your memorialists would now call your attention to a stream of very different description from these last, but which at a very small expense, might be made an inexhaustible source of wealth to the inhabitants on its banks.

The Musquitine Slough leaves the Mississippi river near the town of Bloomington, and after a course of between twenty-five and thirty miles, again unites with the same river near the mouth of the Iowa, thus forming the Musquitine Island. No body of land of equal extent in the Territory, can be more fertile than that on this Slough, and the finely sloped hills stretching around its shores nearly in the form of an immense crescent, the beauty of which might safely challenge the admiration of the world, seem admirably adapted by nature for the residence of man.

You memorialists would, however, beg leave to state to your honorable body, that owing to the fact that a few obstructions exist in the lower part of this Slough, a greater volume of waters enters its channel than can be discharged. The consequence is its fertile banks are annually overflowed, and extensive marshes are formed whose miasma is death, and from which a miasma arises which scatters disease over the surrounding country.

Your memorialists believe that if a few trifling obstructions were

removed from this stream, and one or two small dams raised near the upper end of Musquitine Island, more than forty sections of valuable land would be reclaimed, the health of the vicinity improved, and the Musquitine Slough rendered valuable either for the purposes of navigation, or for propelling machinery. The expenses of improving all the streams enumerated in this memorial, as your memorialists believe, would be small, while the benefits resulting therefrom to the Territory and the people of Iowa, would be immense. As a preliminary step, however, it would be necessary to have accurate surveys and estimates made by a competent engineer, and your memorialists pray your honorable body to cause such survey and estimate to be made as early as practicable, and to grant an appropriation in money for that purpose.

And as in duty bound your memorialists will ever pray, &c.

Mr. Cox from the committee appointed for that purpose reported bill No. 37, H. R. file, entitled "A Bill defining the duties of county surveyors," which was read a first time.

On motion of Mr. Hastings,

Bill No. 29, H. R. file, entitled "A Bill to authorize J. S. Kirkpatrick to keep a ferry across the Mississippi river at Bellview, was read a second time and considered in committee of the whole, Mr. Summers in the chair. After some time the committee rose and reported the bill to the House with amendments, in which the House concurred; the bill was then ordered to be engrossed for a third reading. On motion of Mr. Bailey,

Bill No. 31, H. R. file, entitled "A Bill to prevent trespass on school lands," was read a second time and considered in committee of the whole, Mr. Swan in the chair. After some time spent therein, the committee rose and by their chairman reported the bill to the House with amendments in which the House concurred.

Mr. Cox moved to amend in the 5th line of the 1st section by striking out "ten" and inserting "three nor more than fifty," which was agreed to, and the bill was ordered to be engrossed for a third reading.

Mr. Grimes from the committee on the Judiciary, reported bill No. 36, H. R. file, with amendments, in which the House concurred; the bill was then ordered to be engrossed for a third reading.

On motion of Mr. Frierson,

Bill No. 32, H. R. file, entitled "A bill for the benefit of mechanics" was read a second time and considered in committee of the whole, Mr. Toole in the chair. After some time spent therein, the committee rose and by their chairman, reported the bill to the House with amendments, in which the House concurred; the bill was then ordered to be engrossed for a third reading.

On motion of Mr. Grimes,

Bill No. 33, H. R. file, entitled "A bill allowing and regulating writs of attachment," was read a second time and considered in committee of the whole, Mr. Temple in the chair. After some time the committee rose and reported the bill with amendments, in which the House concurred, the bill was then ordered to be engrossed for a third reading.

On motion, the House adjourned until 2 o'clock P. M.

2 O'CLOCK, P. M.

On motion of Mr. Bailey,

Bill No. 34, H. R. file, entitled "A bill to establish a territorial road from Keokuk to Iowa city on the Des Moines river," was read a second time and considered in committee of the whole, Mr. Bankson in the chair. After some time spent therein, the committee rose, and by their chairman reported the bill to the House with amendments in which the House concurred, and the bill ordered to be engrossed for a third reading.

The following message was received from the Council, by their Secretary, Mr. Wallace.

Mr. Speaker,—

The Council have passed bills of the following titles, viz:

No. 7. An act relating to the office of Register of Deeds.

No. 10. An act to provide for the incorporation of agricultural societies.

No. 11. An act authorizing Timothy Fanning to establish and keep a ferry across the Mississippi river at the town of Du Buque.

In all of which they ask the concurrence of the House of Representatives. And then he withdrew.

On motion of Mr. Hastings,

Bill No. 4, Council file, entitled "A bill relative to promissory notes, bonds, due bills and other instruments of writing," was read a second time and considered in committee of the whole, Mr. Bailey in the chair. After some time spent therein, the committee rose and reported the bill to the House with amendments, in which the House concurred.

On motion of Mr. Beeler,

The bill was then recommitted to the committee on the Judiciary.

On motion of Mr. Swan,

Bill No. 11, Council file, entitled "A bill to authorize Timothy Fanning to establish and keep a ferry across the Mississippi river at the town of Du Buque, was read a first and second time, and considered in committee of the whole, Mr. Beeler in the chair. After some time the committee rose and by their chairman reported the bill to the House without amendment, in which the House concurred; the bill was then ordered to a third reading.

Mr. Delashmutt asked leave of absence for Messrs. Taylor and Price, until Monday next; leave was granted.

Mr. Hastings gave notice that he should, on to-morrow, introduce a bill relating to strays; also a bill to repeal an act of the Legislative Assembly of the Territory of Wisconsin, approved January 12th 1838.

Messrs. Hastings, Grimes and Cox, were appointed a committee to prepare the bills.

Mr. Bailey gave notice that he should at some future day introduce a bill to authorize sheriffs and constables to take delivery bonds. Messrs. Bailey, Delashmutt and Toole, were appointed a committee to prepare the bill, and the committee on the Judiciary

were discharged from the further consideration of the same subject.
On motion, the House adjourned.

Tuesday, December 4, 1838.

Mr. Grimes presented the remonstrance of sundry citizens of Scott county, praying that the county lines of said county may not be altered, which was referred to the committee on township and county boundaries.

Mr. Frierson presented the petition of sundry citizens of Muscatine county, praying that a law may be passed to provide for the sale of the lands now belonging to said county; also a remonstrance on the same subject, which was referred to the select committee on that subject appointed, on the 22d of November.

Mr. Porter presented the petition of sundry citizens of Henry county, praying that a territorial road may be laid out from Burlington to the territorial line, which was referred to the following select committee, viz. Messrs. Porter, Delashmatt, Coop, Beeler and Patterson.

On motion of Mr. Grimes,

Resolved, That Leander Judson, be requested to furnish sixty copies of his sectional map of Iowa territory, for the use of this House.

On motion of Mr. Bankson,

Resolved, That Messrs. Swan and Beeler, be added to the standing committee on Enrolments.

Mr. Grimes from the committee on the Judiciary, reported back to the House, bill No. 4, Council file, entitled "a bill relative to promissory notes, &c." with amendments; the bill was then considered in committee of the whole, Mr. Brierly in the chair. After some time spent therein, the committee rose, and by their chairman, reported the bill with amendments, in which the House concurred.

On motion of Mr. Swan,

The bill was further amended, by adding to the 10th section "provided, if the defendant fails to appear at the first term of the court, the plaintiff, in order to obtain judgment against him at that term, must prove the execution of the note, bond or other instrument."

The bill was then ordered to be engrossed for a third reading.

Mr. Frierson, from the committee on Internal Improvements, reported bill No. 38, H. R. file, entitled "a bill to regulate ferries," which was read a first time.

Bills No. 7 and 10, Council file, were taken up and read a first time.

Bill No. 11, Council file, entitled "a bill to authorise Timothy Fanning to establish and keep a ferry across the Mississippi river at the town of Du Buque," was read a third time, passed, and title agreed to.

The following communication was received from James G. Edwards, and referred to the committee on expenditures.

BURLINGTON, DEC. 4, 1838.

W. H. WALLACE, ESQ.

Speaker of H. R. of Iowa.

Sir, I herewith transmit nine copies of the late Wisconsin laws, in accordance with a resolution passed by the honorable body over whom you preside. These, with two copies furnished Messrs. Taylor and Roberts make eleven, which, as near as I can learn, are all the resolution called for. If the House can make out an order on the Secretary of the Territory for the payment of these laws, which amounts to \$19,25, they will oblige their ob't. serv't.

JAMES G. EDWARDS.

Mr. Hastings from the select committee reported back to the House bill No. 7, H. R. file, entitled "a bill regulating interest on money in the Territory of Iowa," with amendments. The bill was then considered in committee of the whole, Mr. Burchard in the chair. After some time spent therein, the committee rose, and by their chairman, reported the bill to the House with amendments, in which they asked the concurrence of the House.

On this question the yeas and nays were called for and were as follow:

Yeas—Messrs. Bankson, Bailey, Beeler, Brierly, Burchard, Coop, Delashmutt, Frierson, Grimes, Hastings, Patterson, Parker, Porter, Temple and Wallace, Sp'r—15.

Nays—Messrs. Cox, Roberts, Swan, Taylor and Toole—5

So the House concurred in the report of the committee.

Mr. Bailey moved to amend, by striking out "twelve," and inserting "twenty," in the third line of the third section.

On this question the yeas and nays were called, and were as follow:

Yeas—Messrs. Bailey, Beeler, Brierly, Burchard, Coop, Delashmutt, Grimes, Hastings, Patterson, Parker, Porter, Temple and Wallace, Speaker—13.

Nays—Messrs. Bankson, Cox, Frierson, Roberts, Swan, Taylor and Toole—7.

So the amendment was agreed to.

The bill was then ordered to be engrossed for a third reading.

Mr. Grimes from the committee on the Judiciary, reported bill No. 39, H. R. file, entitled "a bill for opening and repairing or vacating public roads and highways," which was considered in committee of the whole, Mr. Coop in the chair. After some time spent therein, the committee rose, reported progress, and asked leave to sit again; leave was granted.

The following communication was received and read:

Mr. Speaker:

SIR—I herewith transmit to you, and the honorable members that compose the House of Representatives, my resignation of the office I received at your hands.

With the highest consideration for yourself, and each member, I remain your obedient servant,

SAURIN JENNERS.

On motion, the House adjourned until 2 o'clock P. M.

2 O'CLOCK, P. M.

Mr. Toole, from the committee on enrolments, reported the following bills as correctly enrolled:

Bill No. 6, H. R. file, entitled a bill providing for the establishing of common schools.

Bill No. 22, a bill relating to informations in the nature of quo warrantos.

No. 26, a bill authorising Josepha Williams and C. A. Warfield to keep a ferry.

No. 28, a bill providing for the collection of demands against boats and vessels.

Which bills were sent to the Council for concurrence.

Mr. Toole also reported the following bills as correctly engrossed, viz:

No. 23, H. R. file, a bill to divide the county of Henry, and establish the county of Jefferson.

No. 30, H. R. file, a bill authorizing Wm. Blake and Peter Blake Jr. to establish a ferry.

No. 2, Council file, a bill regulating the mode of taking depositions, &c.

On motion of Mr. Frierson,

Resolved, That Saurin Jenners, be allowed three dollars per day, for his services as assistant clerk in this House twenty days.

Bill No. 23, H. R. file, was then read a third time, passed, and title agreed to.

On motion of Mr. Grimes,

Resolved, that the committee on expenditures, be instructed to make a calculation of the probable expenses of the present Legislative Assembly, and report to this House as soon as practicable.

Bill No. 2, Council file, was read a third time, passed, and title agreed to.

The House then resolved itself into a committee of the whole on a memorial to Congress, on the subject of granting the right of pre-emption to owners of mineral lots, Mr. Cox in the chair. After some time spent therein, the committee rose and reported the memorial to the House with amendments, in which the House concurred.

On motion of Mr. Grimes,

Resolved, that the Governor of the Territory, be requested to forward copies of the said memorial, to the President of the United States, the commissioner of the general land office, the secretary of state and our delegate in Congress, and that our said delegate be instructed to use his utmost exertions to secure the object of the memorial.

Bill No. 30, H. R. file, was read a third time, and the question was then taken on the passage of the bill, and decided in the negative.

Bill No. 35, a bill to authorize Wm. Hogan, to establish a ferry across the Mississippi river at the town of Lyons, was read a second time and considered in committee of the whole, Mr. Frierson in the chair. After some time the committee rose and reported the

bill to the House with amendments in which the House concurred. The following message was received from the Council by their Secretary, Mr. Wallace:

Mr. Speaker,—

The Council have passed a memorial on the subject of an amendment of the organic law, with an amendment. Also bill No. 17, H. R. file, entitled "an act organizing a board of county commissioners in each county in the Territory of Iowa." with sundry amendments in which they ask the concurrence of the House.

They have also concurred in the resolution of the House, authorizing the Post Master at Davenport, to have the mail from Davenport to Du Buque, carried in two horse post coaches," &c.

And then he withdrew.

Bill No. 37, H. R. file, entitled "a bill defining the duties of county surveyors," was read a second time and considered in committee of the whole, Mr. Grimes in the chair. After some time spent therein, the committee rose, and reported the bill to the House with amendments in which the House concurred.

The bill was then ordered to be engrossed for a third reading.

On motion of Mr. Swan,

Resolved, That a select committee be appointed to examine the bills engrossed and enrolled by the clerks of this House, and report how many are competent to discharge their duties, and how many additional ones are required.

Messrs. Swan, Grimes, Hastings, Bailey and Taylor were appointed said committee.

On motion, the House adjourned.

Wednesday, December 5, 1838.

Mr. Burchard presented the petition of sundry citizens of Scott county, praying that a charter may be granted to Wm. R. Shoemaker, to keep a ferry across the Mississippi river at the town of Davenport, which was referred to the committee on corporations.

Mr. Toole, from the committee on enrollments, reported the following bills as correctly engrossed, viz: bills No. 29, 31 and 32.

Mr. Patterson, from the committee on expenditures made the following report:

The committee on expenditures, to whom was referred the resolution adopted by the House on yesterday, instructing them to make an estimate of the probable expenses of the present Legislative Assembly, beg leave to report.

Your committee have not been able to make a nett calculation of all the expenses of this Assembly, and the territorial government for the present year—but from the means within their reach, they have come to the following conclusion:—

The per diem of members	\$8,779
Mileage of Do.	1,000

Clerks' salaries and other officers	5,250
Rent of State House	1,200
Printing for both Houses and laws	3,000
Stationery	2,000
Furniture of the Legislative chambers	1,000
Printing laws in newspapers	500
Contingent expenses	2,000

Total, 29,729.

Your committee find the appropriation of Congress to defray the expenses of the territorial government to be \$24,675, out of which are to be taken the salaries of the Governor, judges, district attorney and marshal, which amount to \$8,950, leaving a balance only of \$15,725, to defray the expenses of this Legislature. Your committee have not included any extra allowance for the President of the Council and Speaker of the House of Representatives amounting to \$450, the service of the chief clerks in preparing the journals for the two Houses for publication, amounting to \$600, the allowance of the Secretary of the Territory, for preparing the laws for publication, \$400—the expenses of the sheriffs of the different counties in ordering the elections, \$300—for the maps of Iowa, furnished this House by Mr. Judson, and laws of Wisconsin, furnished by Mr. Edwards, making an amount of \$600, which added will make a balance necessary, over and above the appropriation, of \$16,354.

Your committee would therefore, respectfully recommend that this House, in conjunction with the Council, memorialize Congress for an additional appropriation of \$16,354.

On motion, the said report was concurred in.

On motion of Mr. Grimes,

Ordered, That the committee on expenditures, be instructed to prepare a memorial to Congress for further appropriations to defray the expenses of the present Legislative Assembly.

Mr. Swan from the select committee appointed yesterday, made the following report.

Your committee have performed the duties assigned them, and think it necessary, that a good and efficient clerk should be elected, as an assistant to the chief clerk of this House. Also, that an additional clerk be employed in the engrossing department, and that the present incumbent be employed in punctuating the different bills of this House, as well as in engrossing.

The report of the committee was concurred in, and the House proceeded to the election of an assistant clerk.

Messrs. Blair and Coop, were appointed tellers.

Henry W. Moore, received 9 votes, Jesse Williams 5, A. F. Russell 3, S. R. Murray 3. There being no election, the House proceeded to a 2d ballot.

Mr. Burchard withdrew the name of A. F. Russell.

Henry W. Moore received 8 votes, Jesse Williams 9, S. R. Murray 4.

There being no choice, the House proceeded to a 3rd ballot.

Mr. Summers withdrew the name of S. R. Murray.

Henry W. Moore received 12 votes, Jesse Williams 10. Mr. Moore was declared to be duly elected assistant clerk.

The House then proceeded to the election of an additional engrossing clerk.

Messrs. Patterson and Delashmutt, were appointed tellers.

S. R. Murray received 7 votes, Wm. H. Turner 10, J. G. Edwards

4. There being no election, the House proceeded to a second ballot, when S. R. Murray received 12 votes, Wm. H. Turner 9. Mr. Murray was declared duly elected as an engrossing clerk.

Mr. Patterson from the committee on expenditures, reported as follows:

The committee on expenditures, to whom was referred the account of James G. Edwards, for eleven copies of the laws of Wisconsin, furnished this House, report, that it is expedient to grant to said Edwards, the sum of \$19.25, the amount of his account.

The report of the committee was concurred in.

On motion of Mr. Hastings,

Resolved, That James G. Edwards be requested to furnish this House with fifteen additional copies of the Wisconsin laws.

The memorial to Congress, on the subject of an appropriation of land for a Penitentiary, was read a second time, and considered in committee of the whole, Mr. Patterson in the chair. After some time spent therein, the committee rose and reported the memorial with sundry amendments, in which the House concurred; the memorial was then ordered to be engrossed for a third reading.

Bill No. 17, H. R. file, entitled "An act organizing a board of county commissioners in each county, as amended by the Council was taken up, and the amendments to the 5th and 17th sections concurred in; the amendment to the 22nd section was disagreed to.

On motion of Mr. Summers,

The vote of yesterday on concurring with the committee of the whole, in amendments made to bill No. 35, was reconsidered, and, on motion of Mr. Cox, the House refused to concur with the committee; the bill was then recommitted to the committee on roads and highways.

The memorial to Congress on the subject of amending the organic law, as amended by the Council, was concurred in.

On motion, the House adjourned until 2 o'clock, P. M.

2 O'CLOCK, P. M.

Henry W. Moore, elected an assistant clerk, and S. R. Murray, elected an engrossing clerk, came forward and were sworn.

Mr. Swan, from the committee on enrollments reported the following as correctly enrolled, to wit:

Bill No. 4, Council file, entitled "An act relative to promissory notes," &c.; No 23 H. R. file, entitled "An act to divide the county of Henry and establish the county of Jefferson." The said bills were then sent to the Council for concurrence.

The committee on enrollments reported bills No. 7, H. R. file, "A bill regulating interest on money in the Territory of Iowa;" No. 34, H. R. file, "An act to locate and establish a territorial road

from Keokuk, on the Mississippi river, to Iowa city on the Des Moines river;" bill No. 36, H. R. file, "An act fixing the terms of the Supreme and District courts of the Territory of Iowa, and for other purposes," as correctly engrossed.

Mr. Grimes presented the following resolution:

Resolved, By the Council and House of Representatives of Iowa Territory, That the Secretary of the Council and Chief Clerk of the House shall receive six dollars per day for their services in this assembly, and each of the additional clerks, Sergeant-at-arms, Doorkeepers, Messengers and Firemen, receive three dollars per day, to be paid by the Secretary of the Territory, upon the presentation of a certificate of their services, signed by the presiding officer of the House in which they served and countersigned by the Secretary or Chief Clerk.

And, on the question of the adoption of the same, it was decided in the affirmative, as follows:

Yeas—Messrs. Bankson, Beeler, Cox, Delashmutt, Grimes, Hastings, Patterson, Porter, Roberts, Summers, Swan, Taylor, Tempie, Toole, and Wallace, Speaker—15.

Nays—Messrs. Brierly, Burchard, Coop and Frierson—4.

Bills No. 29, H. R. file, "A bill to authorize J. S. Kirkpatrick to keep a ferry at Bellevue," and No. 31, H. R. file, "A bill to prevent trespass on School Lands," were then taken up, read a third time, passed and the titles agreed to.

Bill No. 32, H. R. file, "A bill for the benefit of mechanics," was then taken up and read a third time.

Mr. Swan asked and obtained the unanimous consent of the House to add to said bill the following section, to-wit:

SEC. 5. And it is further provided by this act, That when any person is employed to work on mineral ground, where mineral is found, he shall have all the benefit of this act, and shall have a lien on a sufficient quantity of mineral on the lot where he may be employed to pay him for any just demand which he may have in consequence of labor, that he may have performed on the same.

On motion of Mr. Cox,

Ordered, That said bill be re-committed with the amendment.

Bill No. 7, H. R. file, was then read a third time, and on motion of Mr. Grimes, the same was recommitted.

Bill No. 34, H. R. file, was taken up, the blanks filled with the name of James Suttan, Joseph Robb and James McMurray, read a third time, passed and the title of the same agreed to.

Bill No. 35, H. R. file, "A bill fixing the time for holding the Supreme and District courts and for other purposes," was then taken up, and read a third time.

On motion of Mr. Cox,

Said bill was amended as follows: In the fourth section, insert "the county of Benton is hereby attached to the county of Jackson for Judicial purposes."

The bill was then passed and the title agreed to.

Bill No. 38, H. R. file, "A bill to regulate ferries," was read a second time and considered in committee of the whole, Mr. Parker

in the chair. The committee, after some time spent in consideration thereof, rose and reported the same to the House with amendments, in which the House concurred; and on motion of Mr. Grimes, the bill was amended by striking out the word 'May' in the last section, and inserting 'March.' Said bill was then ordered to be engrossed for a third reading.

On motion, the House adjourned.

Thursday, December 6, 1838.

Mr. Burchard presented the remonstrance of sundry citizens of Scott county, against any alteration in the boundary lines of said county.

On motion, the said remonstrance was referred to the committee on township and county boundaries.

On motion of Mr. Coop,

Resolved, That the committee on roads and highways be instructed to inquire into the expediency of establishing a territorial road leading from Fort Madison to West Point in Lee county, thence to Salem, in Henry county, thence to the seat of justice of Jefferson county.

Mr. Summers, from the committee on roads and highways, reported bill No. 40, entitled "A bill to authorize J. H. Sullivan and A. H. Davenport, to keep a ferry across the Mississippi river, at the town of Rockingham." Read a first time.

Mr. Taylor, from the select committee appointed for that purpose, reported bill No. 41, entitled "A bill subjecting real and personal estate to execution." Read a first time by its title.

The Speaker announced the following communication from the Judges of the Supreme Court of this Territory, to wit:

BURLINGTON, DEC. 4, 1838.

To the Honorable the Speaker of the House of Representatives of the Territory of Iowa.

Sir,—We herewith beg leave to present for the consideration of the Legislative Assembly a bill entitled "An act to allow and regulate the Action of Right."

Yours, very respectfully,

CHARLES MASON,
JOSEPH WILLIAMS,
T. S. WILSON.

The bill referred to in the said communication was read a first time.

Mr. Hastings, from the select committee appointed for that purpose, reported bill No. 43 entitled "A bill to repeal an act of the Legislative Assembly of the Territory of Wisconsin, approved January 19th, 1838." Read a first time.

The committee on enrollments reported the following bills as correctly enrolled:

Bill No. 31, H. R. file, entitled "An act to prevent trespass on school lands;" bill No. 29, H. R. file, entitled "An act to authorize J. S. Kirkpatrick to establish and keep a ferry across the Mississippi river, at the town of Bellevue;" bill No. 34, H. R. file, entitled "An act to locate and establish a territorial road from Keokuk, on the Mississippi river, to Iowa city on the Des Moines river."

Ordered to be sent to the Council for concurrence.

And bills as follows, as correctly engrossed, to wit:

Bill No. 33, H. R. file, entitled "A bill allowing and regulating writs of attachment," and bill No. 37, H. R. file, entitled "A bill defining the duties of county surveyors."

The said bills, No. 33 and 37, were read a third time, passed, and the titles thereof agreed to.

Message from Council by the Secretary, Mr. Wallace.

Mr. Speaker,—

I am instructed to inform the House of Representatives, that the Council have concurred in the resolution of the House fixing the compensation of the officers of the Legislative Assembly. And then he withdrew.

On motion of Mr. Grimes,

The House resolved itself into committee of the whole, Mr. Coop in the chair, for the consideration of bill No. 39, entitled "A bill for opening and repairing or vacating public roads and highways;" and, after some time spent therein, the committee rose and reported the bill with amendments.

The House concurred in the report of the committee.

On motion of Mr. Cox,

Ordered, That the said bills be referred to the committee on roads and highways.

Mr. Swan, from the committee on enrollments, reported the following as correctly enrolled, to wit: A memorial to Congress on the subject of the defence of the frontier; and a bill relative to pleas in abatement and the abatement of suits by the death of parties. And that the said memorial and bill had been presented to the Governor for his signature.

On motion, the House adjourned until 2 o'clock, P. M.

2 O'CLOCK, P. M.

Mr. Wallace, the Secretary of the Council, being introduced, delivered the following message:

Mr. Speaker,—

I am instructed to inform the House of Representatives, that the Council insist upon their amendment made to bill of the House No. 17, and 22d section, and have appointed Messrs. Hempstead, Clarke and Payne, a committee, on the part of the Council, to confer with a similar committee of the House in relation to the disagreeing vote of the two houses.

They have also passed bills of the following titles:

No. 9. An act to incorporate the city of Du Buque.

No. 8. An act concerning marriages.

No. 12. An act to locate a road from Fort Madison, in Lee county, to Mount Pleasant, in Henry county, and to the county seat of Slaughter county.

In all of which they ask the concurrence of the House of Representatives. And then he withdrew.

Mr. Beeler, from the committee on enrollments, reported bill No. 36, H. R. file, entitled "An act fixing the terms of the Supreme and District courts of the Territory of Iowa, and for other purposes," as correctly enrolled; and bill No. 38, H. R. file, entitled "An act to regulate ferries," as correctly engrossed.

Bill No. 38, H. R. file, entitled "A bill to regulate ferries;" and memorial in reference to the erection of a penitentiary in this Territory, being taken up, were read a third time, passed, and the titles to the same agreed to.

Bill No. 9, Council file, entitled "A bill to incorporate the city of Du Buque," was read a first and second time, and on motion of Mr. Hastings, the House for the consideration of said bill, resolved itself into a committee of the whole, Mr. Roberts in the chair. After some time spent in the consideration of the same, the committee rose and by their chairman reported said bill with amendments.

The question then recurred upon the concurrence of the House with the report of the committee; whereupon it was decided in the affirmative, and the bill ordered to a third reading.

On motion, the House adjourned.

Friday, December 7, 1838.

Mr. Grimes presented the petition of Jeremiah Smith and others, praying for the repeal of an act for the partition of the half breed lands and for other purposes, and an act supplementary thereto. Referred to the committee on the Judiciary.

On motion of Mr. Blair,

Resolved, That the committee on Roads and Highways, be instructed to inquire into the expediency of locating a territorial road, from Phelps' landing opposite Oquawka, to Mount Pleasant in Henry county, and report by bill or otherwise.

On motion of Mr. Bailey,

Resolved, That Messrs. Parker and Brierly be added to the standing committee on Roads and Highways.

Mr. Summers, from the select committee to whom was referred the resolution of the House, on the subject of the seat of justice of Scott county, made report—

That they have had the subject under consideration, and upon an examination, find that at the close of the election for county seat in Scott county, on the 6th day of August last, there were polled for the town of Rockingham two hundred and seventeen votes, and of the town of Davenport two hundred and two votes; and that the

sheriff and county commissioners of the county of Du Buque, to whom the returns of said election were made, have decided that Davenport is the seat of justice, for said county having rejected eighteen votes polled at Rockingham as illegal.

Your committee believe that the sheriff and commissioners of Du Buque county had not the power under the law providing for that election to reject any of the votes polled at said election, and would therefore recommend the appointment of three commissioners, to purge the polls of said election, and submit for the consideration of the House the following bill, to wit:

Bill No. 44, entitled a bill concerning the seat of justice of Scott county, which was read a first time.

Mr. Swan from the committee on Enrolments, reported an act to authorize Timothy Fanning to keep a ferry across the Mississippi river, at Du Buque, as correctly enrolled, and Mr. Toole from the same committee, reported as correctly enrolled, bills of the following titles, to wit:

An act defining the duties of county surveyors.

An act allowing and regulating writs of attachment. Also

A memorial to Congress on the subject of a Penitentiary.

The said bills and memorial were ordered to be sent to the Council for concurrence.

Mr. Parker asked and obtained leave to introduce a bill to locate a road from Keasauqua, to the seat of justice of Jefferson county.

The chair appointed Messrs. Parker, Bailey and Coop, a committee to prepare the bill.

Mr. Toole from the select committee appointed for that purpose reported bill No. 45, entitled a bill to establish the boundaries of Louisa county, and to locate the seat of justice for said county, and for other purposes. Read a first time.

Mr. Hastings from the select committee appointed for that purpose, reported bill No. 46, entitled an act relating to strays, which was read a first time.

Mr. Taylor asked leave at a future day, to introduce bills of the following titles, to wit:

A bill to prevent the selling of spirituous liquors to Indians, and

A bill to punish the venders of unwholesome liquors and provisions.

Messrs. Taylor, Bankson and Thornton were appointed a committee to prepare said bills.

Mr. Hastings asked leave at some future time to introduce a bill to restrain unincorporated banking associations. Leave was granted, and Messrs. Hastings, Grimes, and Cox were appointed a committee to prepare the same.

Bill No. 8, Council file, was read a first time, and

On motion of Mr. Grimes,

Was referred to a select committee; whereupon the chair appointed Messrs. Cox, Grimes, Bailey, Swan and Toole said committee.

Bill No. 12, Council file, entitled "an act to locate a road from Fort Madison, in Lee county, to Mount Pleasant, in Henry county,

and to the county seat of Slaughter county, was then taken up and read a first time.

Bill No. 40, H. R. file, was taken up read a second time, and considered in committee of the whole, Mr. Swan in the chair. After a short time, the committee rose, and reported said bill without amendment. The House concurred in the report.

And on the question, "shall the bill be engrossed and read a third time?" it was determined in the affirmative.

Bill No. 43 H. R. file, entitled "a bill to repeal an act of the Legislative Assembly of the Territory of Wisconsin, was then read a second time and ordered to be considered in committee of the whole, Mr. Summers in the chair. After some time the committee rose and reported said bill without amendment, in which report the House concurred, and ordered said bill to be engrossed and read a third time.

Bill No. 7, Council file, entitled "An act relating to the office of Register of Deeds, &c." was then taken up and considered in committee of the whole, Mr. Taylor in the chair. The committee rose after a short period and reported said bill with amendments. The House concurred in the report of the committee.

The bill was then read a third time and ordered to be engrossed.

On motion of Mr. Grimes,

Ordered that the foregoing bill last under consideration be referred to a select committee. Messrs. Grimes, Taylor, Hastings, Blair, and Frierson were appointed said committee.

Mr. Swan, from the committee on Enrolments, reported a memorial to Congress on the subject of granting preemptions on mineral lands, as correctly enrolled.

Bill No. 10, Council file, was next taken up and read a second time, and considered in committee of the whole, Mr. Temple in the chair. The committee rose and reported the bill without amendment; in which report the House concurred; and ordered the said bill to be engrossed and read a third time.

Bill No. 9, from the Council, entitled "an act to incorporate the city of Du Buque," was read a third time, passed, and title agreed to.

Bill No. 3, from Council, was then read a second time, and considered in committee of the whole, Mr. Toole in the chair. The House concurred in the report of the committee, made on the bill without amendment; and on the question, "Shall the said bill be engrossed and read a third time?" it was determined in the affirmative.

Bill No. 12, Council file, was next read a second time and considered in committee of the whole, Mr. Bankson in the chair. The committee rose, after some time, and reported the bill with amendments. The House concurred in the report of the committee, and ordered said bill to be engrossed, and read a third time.

Mr. Swan gave notice that he should on to morrow ask leave to amend the 27th standing rule of this House as follows:—Strike out all of said rule and insert the following, viz:

"After a bill shall have passed the House, it shall be the duty of the Chief Clerk of the House so far to alter the title of the bill as

to strike out the words 'a bill,' and insert in lieu thereof the word 'an act.' It shall then be duly enrolled; after which it shall be examined by a standing committee for that purpose, who shall carefully compare the enrolled with the engrossed bill, and correcting any errors that may be discovered in the enrolled bill, shall mark them, and report forthwith to the House."

On motion of Mr. Swan,

Ordered, That a committee of conference be appointed on the disagreeing vote of the two Houses in relation to the amendment of the Council to the 22d section of bill No. 17, H. R. file. Messrs. Swan, Beeler and Roberts were appointed said committee.

Mr. Hastings moved to adjourn; which motion Mr. Swan moved to amend by saying 'to 2 o'clock;' which was agreed to.

The question was then taken on the motion to adjourn as amended; which was decided in the negative.

Mr. Grimes from the committee to whom was referred a bill concerning divorces, reported a substitute therefor; which was ordered to be printed.

On motion the House adjourned until 2 o'clock P. M.

2 O'CLOCK, P. M.

Mr. Beeler gave notice that he should, on Monday next, or some day thereafter, ask leave to introduce a bill, entitled 'a bill regulating the publication and distribution of the laws and journals of the Legislative Assembly of the Territory of Iowa, and the reprinting of sundry private acts of the Legislative Assembly of the Territory of Wisconsin, and for other purposes.' Leave was granted; and Messrs. Beeler, Delashmutt and Burchard were appointed a committee to prepare said bill.

On motion of Mr. Grimes,

Ordered, That the House now resolve itself into a committee of the whole, for the consideration of bill No. 48, H. R. file, entitled 'a bill for the relief of the poor,' Mr. Bailey in the chair. After some time the committee rose, reported progress, and asked leave to sit again. Leave was granted.

The Speaker announced a communication from the Hon. Wm. B. Conway, Secretary of the Territory. Said communication, with the accompanying documents, were then read; and,

On motion of Mr. Beeler,

Ordered that they be laid on the table and spread upon the journals of the House, and are as follows:

SECRETARY'S OFFICE, }
Dec. 6, 1838. }

To the Honorable the Speaker of the House of Representatives.

SIR,—The receipt of a joint resolution authenticated by the signatures of the Honorable the presiding officers of both branches of the Territorial Legislature of Iowa, and duly transmitted to this Department, is hereby respectfully acknowledged.

This resolution was passed on the 5th of the present month, and specifies the per diem compensation which the chief clerk and other

officers of each House shall receive; and it furthermore provides that such compensation *is to be paid* by the Secretary of the Territory. It was known to the Secretary at an early stage of your legislative proceedings, that some difference of opinion existed in relation to expenditures and disbursements, and hence he took occasion to bring the entire subject in a very distinct form before both Houses of Assembly on the third day after the commencement of the session, as by reference to his communication of that day (the 15th Nov.) will more fully and at large appear. And the Secretary was not aware of any joint action of the legislature on the subject of disbursements, in the shape of a general provision, until he had received the resolution which was passed on the 5th inst. to which this communication is intended as a reply. In replying, therefore, to the joint resolution of the Honorable Legislative Assembly, (pursuant to which a certificate has been presented) the Secretary takes pleasure in giving the assurance that he is PREPARED and DISPOSED to meet every demand against the Territorial Government that may be accompanied by a sufficient voucher in contemplation of law.

But the legal sufficiency of the voucher constitutes a difficulty, which, in the payment of money, that *MUST BE ACCOUNTED FOR* by the disbursing officer, becomes to him at least, a momentous subject.

A man may do what seems good in his own eyes with his own money, but when the money is not his own, but placed in his hand for specific purposes, a distinct and well defined knowledge of those purposes becomes a matter of the first importance to him.

The money now in the hands of the Secretary is to be expended for these purposes, namely, "to pay the expenses of the Legislative Assembly—the printing of the laws, and other incidental expenses."

Expenses are incurred in the Legislative Assembly, for the services of clerks and other officers. How these clerks and other officers should acquire a legal existence as such, is a subject over which the Secretary possesses no control; but what constitutes official existence in contemplation of law is in the present instance involved in obscurity and doubt. A clerk in either house, who renders services as such, becomes a public creditor, and a fund is placed in the hands of the Secretary to compensate him for his services thus rendered. But the manner in which a clerk or other officer is legally created is now a question. The organic law provides, specifically, for the per diem of the members of the Legislature, and for their mileage in going to and returning from the seat of the Territorial Government; but it contains no other specific provisions with regard to items of legislative expenditure. The term "expenses" is general and comprehensive, and in the absence of a legal definition, it vests the Secretary with unlimited discretion.

But it was certainly not intended by Congress that such should be the character of his official discretion; because it is provided also that he shall ACCOUNT annually for the MANNER in which the money placed in his hands shall have been expended. True, he is not obliged to account to any officer of the Territorial Government.—

Still the Legislative authorities must regulate their 'expenses' by some rule, and here the question again returns, as to what amounts to a competent regulation of the expenses now considered. The discretion of the Secretary is regulated and restricted by the provisions of the resolution now before him; but it will be seen by the subjoined communication, that the resolution itself has been regarded as "destitute of legal authority or Executive sanction."—The views of his Excellency the Governor have been elicited, by the Secretary, as a preliminary protection against unauthorised disbursements, and, whilst the difference appears so palpable between the requirements of the resolution and the sanction which has been considered as necessary to its legal validity, it becomes important to enquire into the character of the official action which would remove the objection thus disclosed.

If the Secretary were to present his accounts at the Treasury Department of the United States, for the purpose of making his annual settlement accompanied by vouchers "destitute of legal authority" and claim credits for moneys paid to persons "legally unknown," the responsibilities thus incurred would render a Territorial Secretaryship one of the most undesirable stations on earth. And the fact that the Secretary had acted thus, in direct opposition to the expressed opinion of the Executive, with regard to the legal authenticity of his vouchers, might not tend greatly to increase the claims of the ruined officer to public commiseration. This is, therefore a serious subject.

The subjoined opinion of his Excellency Governor Lucas, was frankly elicited and as frankly expressed; with the knowledge that it would accompany the Secretary's reply to your resolution. The whole subject is therefore respectfully recommitted to the Honorable the Legislative Assembly, attended by the anxious hope, that the Secretary will not be required to circumnavigate the great ocean of official discretion, without a chart to guide him in his course; and, more especially, that the chart which may be furnished shall possess every legal sanction that can conduct him into the haven of security, in money matters at least.

It will be always remembered, that the Secretary possesses no part, or particle of the Legislative power, except in its primary character at the ballot box. It is therefore respectfully submitted, whether it is not absolutely necessary that the legislative authorities declare whether the organic law is in itself sufficient to authorize disbursements, under its general terms and provisions, or whether vouchers of unquestionable legality, cannot be furnished to enable the Secretary to indulge his desire of paying every person employed in the public service, to whom payment is honestly due?

I have nothing farther to add, but to invite your particular attention to the subjoined correspondence with the Governor, while I remain very respectfully,

WM. B. CONWAY,
Secretary of the Territory.

SECRETARY'S OFFICE, }
IOWA TERRITORY, DEC. 6, 1838. }

To His Excellency Gov. LUCAS:

SIR,—Your Excellency will please to notice, in the Legislative Journals of December 5th, 1838, a joint Resolution providing for the pay of Clerks, &c. upon the presentation of a certificate to the Secretary, attested as therein prescribed.

A certificate under this resolution, (together with the Resolution itself,) has been presented this day. And my only object is to enquire whether your Excellency would consent to give me a written opinion on the subject; stating whether the certificate in question, is or can be legally regarded as a sufficient voucher, in settling my accounts with the Treasury Department of the United States.

With very respectful consideration, I remain

Your obedient servant,

WM. B. CONWAY,
Secretary of the Territory.

EXECUTIVE OFFICE, }
IOWA TERRITORY, DEC. 6, 1838. }

WM. B. CONWAY, Sec'y. of Iowa Territory.

SIR,—I acknowledge the receipt of your communication of this date, together with a joint resolution of the Council, and House of Representatives, of the Territory of Iowa, making an allowance for Clerks, Doorkeepers, Messengers, Fireman, &c. and directing the pay of such allowance, by the Secretary of the Territory, on the certificate of the presiding officer of the House, attested by the Secretary or Chief Clerk. Also a certificate of the Speaker of the House of Representatives, attested by the Chief Clerk, certifying that Samuel W. Summers is entitled to three dollars per day, for his services as Sergeant at Arms, from the 12th of November, to the 5th of December inclusive, and requesting my opinion whether said certificate can be legally regarded as a sufficient voucher in settling your accounts with the Treasury Department of the United States.

In complying with your request, it becomes necessary to take a review of the nature of our government, the power vested in it, and the sources from whence this power is derived. The second clause of the 3d section of the 4th article of the Constitution of the United States, vests in congress, the power to make all needful rules and regulations, respecting the Territory, or other property belonging to the United States.

Under this clause of the Constitution, Congress passed the Act of the 12th of June, organizing the Territorial Government of Iowa; and vested in the Territorial Government certain powers, by which, in connection with the Constitution of the United States, we must be controlled in all our official acts. This act declares that the Legislative Power of the Territory "shall be vested in the Governor and Legislative Assembly:" in the 2d section it declares that the Governor shall approve of all laws passed by the Legislature, before they shall take effect; and in every case, when the acts of the

Legislature are spoken of, they are mentioned as the acts of the Governor and Legislative Assembly, and in no place is there any power vested in the Legislative Assembly independent of the Governor.

The 11th section of the Organic law declares that there shall be appropriated annually, a sufficient sum, to be expended by the Secretary of the Territory, and upon an estimate to be made by the Secretary of the Treasury of the United States, to defray the expenses of the Legislative Assembly, the printing of the Laws and other incidental expenses; and declares that the Secretary of the Territory shall annually account to the Secretary of the Treasury of the United States for the manner in which the aforesaid sum shall have been expended.

You are by this clause created the disbursing agent of the Treasury Department of the United States, and held responsible to it, for your disbursements. The 7th clause in the 9th section of the 1st article of the Constitution of the United States declares "that no money shall be drawn from the Treasury, but in consequence of appropriations made by law, and a regular statement and account, of the receipts and expenditures of all public money, shall be published from time to time." By the organic law, you are ex officio, a sub-treasurer of the United States, and you are bound to render your accounts annually, for settlement, and to produce legal vouchers for all money disbursed by you. With this view of the subject, I am clearly of the opinion that the resolution and certificate referred to in your communication, being destitute of legal authority or Executive sanction, could not with safety be received by you as vouchers for the payment of money upon them.

The officers named in the resolution and certificate are legally unknown to us, and must continue to be so, until a law is passed creating these offices, fixing the salary and defining the manner of payment.

The foregoing are briefly my views on the subject referred to me by you, in your communication.

Very respectfully, your ob't. servant,

ROBERT LUCAS.

On motion of Mr. Frierson,

The last motion was reconsidered, and the said communication referred to a committee composed of one member from each electoral district. The chair appointed Messrs. Frierson, Swan, Roberts, Summers, Grimes, Porter, Bailey and Taylor, said committee.

On motion of Mr. Taylor,

Ordered, that the House do now in committee of the whole, resume the consideration of bill No. 48, entitled "a bill for the relief of the poor;" Mr. Bailey in the chair. After some time spent therein, the committee rose and by their chairman reported the said bill with amendments. The House concurred in the report of the committee; and on the question "shall the bill be engrossed and read a third time?" it was determined in the affirmative.

Mr. Temple, from the committee to whom was recommitted bill No. 32, H. R. file, entitled "a bill for the benefit of mechanics," reported the same to the House. Said bill was then read a second

time, and, on motion of Mr. Temple, the House resolved itself into a committee of the whole, on said bill. After some time spent in the consideration thereof, the committee rose and reported the same to the House without amendment. The House concurred in the report of the committee;

And the bill was ordered to be engrossed for a third reading.

Mr. Swan offered the following:

Resolved by the Council and House of Representatives of the Territory of Iowa, That in consequence of the communication from the Honorable Secretary of this Territory, relating to the expenditure of public money, &c. dated Dec. 7th, inst. and the difficulties attending the same, that it is expedient to adjourn until Monday next for the purpose of assembling in convention, in the Hall of the House of Representatives, to take into consideration the best mode of future procedure.

Mr. Bailey moved to amend, by striking out Monday, and inserting to morrow morning at 10 o'clock.

The question being upon the adoption of the amendment;

The yeas and nays being called for by Mr. Frierson, were as follows:

Yeas—Messrs. Bailey, Brierly, Burchard, Coop, Cox, Delashmutt, Grimes, Parker, Porter, Roberts, Summers, Taylor, Temple and Toole—14.

Nays—Messrs. Bankson, Beeler, Frierson, Hastings, Patterson, Swan and Wallace, Speaker—7.

So the amendment was adopted.

Mr. Cox moved to reconsider the vote as taken on the adoption of the amendment; which was agreed to.

The question then recurred upon the adoption of the amendment; which was decided in the negative.

Mr. Grimes, moved to amend as follows, viz: after the word procedure in the last line of the resolution, add the following:

"And that the chief clerk be instructed respectfully to invite the Governor of the Territory and the Council to meet this House at 11 o'clock to morrow morning in convention." Mr. Swan accepted the amendment. The question then recurred on the adoption of the original resolution, as amended.

And the yeas and nays thereon being called for, were as follows:

Yeas—Messrs. Bankson, Bailey, Brierly, Burchard, Coop, Cox, Delashmutt, Grimes, Hastings, Porter, Roberts, Summers, Swan, Temple, Toole, and Wallace, Speaker—16.

Nays—Messrs. Beeler, Frierson, Patterson, Parker and Taylor—5.

So the resolution and amendment were adopted.

On motion, the House adjourned.

Monday, December 10, 1838.

Mr. Burchard, presented a remonstrance of sundry citizens of Scott county, against any alteration in the boundary lines of said county.

The said petition was referred to the committee on township and county boundaries.

Mr. Summers, presented the petition of inhabitants of Scott county, praying for the appointment of three commissioners to locate, at the expense of the Territory, a road from the town of Parkhurst, to the Indian boundary line; and a petition of citizens of the same county, praying that a charter may be given to Ralph Letton, to keep a ferry at the town of Parkhurst. Said petitions were severally referred to the committee on roads and highways.

Mr. Swan, from the committee on corporations, to whom was referred the petitions of citizens of Scott county, desiring that a ferry charter granted to John Wilson, by the Legislative Assembly of Wisconsin, be made void, made report,

That it is inexpedient to grant the prayer of the petitioners, and would be at this time an improper interference of legislative authority, and that they have leave to withdraw their petition.

The House concurred in the report.

Mr. Swan, from the select committee to whom was referred the communication of the Hon. Wm. B. Conway, Secretary of the Territory, together with a communication of his Excellency Robert Lucas, Governor of the Territory, (which were presented to this House on the 7th inst.) offered the following report which was read by the Chairman.

REPORT

Your committee have viewed with much regret, the grounds taken by the executive in his communication of the 6th inst which was very properly elicited by the Hon. Wm. B. Conway, in his official character, as Secretary of this Territory; and this regret, results more particularly from the belief, that the members of the Legislature, as freemen, and representatives of freemen, can never reconcile their views of either legislative or personal independence, with the exercise of power, thus claimed by the Executive.

That the organic law vests the Governor of this Territory, with very enlarged and extensive powers, is not denied by your committee and it is believed that the powers thus unquestionably granted, are amply sufficient to satisfy the mind of any reasonable Executive. He is the Governor of the Territory—He is the commander-in-chief of the militia—he is superintendant of Indian affairs—he can grant pardons for offences committed against the laws of this Territory—and he can grant conditional reprieves for offences committed against the laws of the United States—he can commission all officers who shall be appointed to office under the laws of this Territory—and he may *veto* in an *absolute* manner, any laws or all laws of the Legislative Assembly, for which he would not vote, if he were a member of either House. The foregoing powers, your committee concede to the Executive, and whenever a spirit is manifested to

transcend these, they are conceded with reluctance and regret. It is nevertheless a point for which your committee will still contend, that the Legislature, as an aggregate and deliberative body have their own inherent rights, which no Executive power can justly invade or take away; that amongst these, is the right to regulate the internal policy, and business arrangements of their respective Houses a right resulting from their own organization, as a deliberative assembly. Every branch and department of Government, can rightfully adopt rules and regulations to facilitate the discharge of their respective duties, with which rules and regulations, no external power has a right to interfere, and any interference therein, must be resisted as usurpation. To say what number of clerks, &c., is necessary in each House, is a right which each is believed to possess, and the amount of salary which each officer shall receive, the House of which he is an officer, has a right to declare. A resolution was adopted on the 5th inst., in pursuance of this right, and the resolution has been declared by the Executive, as destitute of legal authority. If the Executive is right in this opinion, then the Legislature have no right of power independent of him. Then would it be necessary to have the Executive sanction for every quill, every drop of ink, or sheet of paper used in this House. Then would it be necessary to have the Executive sanction in adopting rules, and deciding questions of order; nor could a speaker or a clerk be duly elected without "Executive sanction." This doctrine in the opinion of your committee, would lead to Executive despotism. Your committee deem it unnecessary to insist, that the Executive is clearly in error, as regards the clause which he quotes from the constitution of the United States, relative to the appropriation of public money; the joint resolution adopted on the 5th, did not provide for, or direct the appropriation, but the distribution of money. The fund in question has been previously appropriated by Congress, pursuant to the constitution of the United States, and its provisions. The money has been drawn from the Treasury of the United States, by the Secretary of the Territory, and the resolution of the 5th, declared to be "destitute of legal authority," merely directed the distribution of a fund for the payment of expenses, provided for by the organic law.

Therefore Resolved, That the power to regulate the internal policy and business arrangements of the Legislative Assembly, is inherent in that body and cannot be infringed with success, without reducing the representatives of a free people, to a state of servile dependence on the will or whims of one man.

C. SWAN,
L. SUMMERS,
HAWKINS TAYLOR,
JAMES W. GRIMES,
A. B. PORTER,
ROBERT G. ROBERTS.

After which Mr. Frierson, from the minority of the committee to whom was referred a communication from the Hon. Wm. B. Conway, Secretary of the Territory, submitted the following

REPORT.

That the committee have examined the communication referred

to them for consideration with that care and attention which the subject at this time seems to demand, and find that two points only arise for investigation.

1st. Is a joint resolution of the two Houses of the Legislative Assembly, good and valid in law without the signature of the Governor of this Territory? and,

2d. Can this Legislative Assembly properly take cognizance of a letter not addressed, either to the Council or House of Representatives, which is not a legislative document, and contains nothing which can call an executive act in question?

The minority of the committee are of opinion that a proper solution of these two questions would decide all that it is necessary to investigate and settle under the resolution which has been referred to them.

Before attempting to decide on the first point in question, the minority of the committee have carefully examined the provisions of the organic law and also all the legislative proceedings within their reach, and the result has been a full and entire conviction that no joint resolution of this Legislative Assembly, can have any binding effect in law before it is approved by the executive.

And they are warranted in this opinion not only by the fact that the Legislative power of this Territory is always spoken of in the organic law, in conjunction with the executive, and in every case where the acts of the Legislature are mentioned they are spoken of as the "acts of the Governor and Legislative Assembly," but in all cases where the minority of the committee have been able to examine the acts of other Legislative bodies, they find that all joint resolutions have been approved by the executive, before they have had any binding effect in law.

The Executive and Legislative departments have been wisely provided as a check upon each other, and all attempts on the part of one of these departments to encroach on the rights and the duties of the other should be promptly arrested.

Each department should be made to revolve in its own legitimate sphere, so as never on any occasion, to interfere with another.—Should the executive attempt to take the enacting power into his own hands, it would be the duty of the Legislature to resist the attempt, and check his course.

On the other hand, all attempts to pass laws, or pass joint resolutions and give to them the binding force of laws, without the executive sanction, should be avoided as illegal and revolutionary.

On the first part of the second point in question the minority of the committee believe there can be but little difference of opinion.

The Secretary of the Territory is the only disbursing agent known to the organic law. He alone is responsible for his acts; the Governor can have no control over his disbursements, except that he might disapprove the general appropriation bill at the end of the session, if objectionable to him; but it would in the opinion of the minority of the committee be very unfair to anticipate his veto, before he knows any thing of the provisions of the bill, no part of which has yet been framed,

Even then if the Secretary should assume the responsibility of paying on the certificates of the presiding officers of the two Houses, be unquestionably has the right to do so.

The Secretary may, in the opinion of the minority of the committee, safely pay for all the printing, and incidental expenses of the Legislative Assembly, on the certificates of the presiding officers of each House without any joint resolution on the subject. And in the same way however improperly the executive may, and does think they have been employed, he may pay the 23 subordinate officers now employed by this Legislative Assembly—and if his vouchers are allowed by the Treasury Department of the United States, he is safe. No other power or authority can control him in the case. The Governor has no control of the matter, nor has he, so far as the minority of the committee can learn, ever assumed any, beyond the mere expression of his private opinion, that a joint resolution, destitute of executive sanction, would not be a safe voucher. In this he makes no attempt to control the Secretary, but leaves him to the exercise of his own discretion. While treating this part of the subject, the minority of the committee must observe, in reference to the paper communicated to the Secretary at his own request relative to a joint resolution of the Council and House of Representatives, when that resolution was never presented to the Governor for his consideration with a view to his approval or disapproval *officially*, does not furnish any good grounds for the action of this House relative to the propriety of the Governor's proceedings.

This House can only recognize the official acts of the Governor, and cannot take cognizance of his private opinions communicated to others, although made public by those to whom they may have been communicated.

After a review of the whole case as well as a careful examination of the papers referred to them, the minority of the committee have finally come to the conclusion that the Secretary is the only disbursing officer known to the organic law of this Territory, and that he may rightfully pay all incidental and other expenses of the Legislative Assembly upon the certificate of the presiding officer of either House, countersigned by the Secretary or chief clerk thereof.

They are also of opinion that there is no issue formed between the Executive and this Legislative Assembly, because no appropriation bill has been presented to him for his approval or disapproval—he has rejected no bill or resolution sent to him from this Legislature, and therefore there is no just cause of difference between the Executive and this House.

JOHN FRIERSON,
G. S. BAILEY.

Mr. Cox offered the following:

Resolved, That the Speaker of this House, appoint a committee in accordance with the resolution of the House of third of December, to memorialize the Post Master General, to pay the extra expenses that may be incurred under said resolution, which was adopted, and

Messrs. Cox, Summers and Swan, were appointed the committee.

Bill No. 41, H. R. file, entitled an act subjecting real and personal estate to execution, was read a second time and considered in committee of the whole, Mr. Beeler in the chair.

The committee arose, reported that they had made progress in the duty assigned them, and asked leave to sit again. Leave was granted.

The following bills from the Council:

No. 3. An act to provide for laying out and opening territorial roads.

No. 10. An act to provide for the incorporation of agricultural societies.

No. 12. An act to locate a territorial road from Fort Madison, Lee county, to Mount Pleasant, in Henry county, thence to Prairie La Porte, in Clayton county, were then taken up, and

Nos. 3 and 10 were read a third time, passed, and the titles agreed to.

Ordered, That the clerk acquaint the Council therewith.

No. 12 was, on motion of Mr. Taylor, referred to a select committee of Messrs. Taylor, Swan, Porter, Cox and Roberts.

Bill No. 32, H. R. file, entitled "An act for the benefit of Mechanics," was taken up, read a third time and passed.

On motion of Mr. Grimes,

The title of said bill was amended so as to read as follows, viz: "An act relative to Mechanics liens, and for other purposes."

Mr. Taylor from the select committee appointed for that purpose, introduced the following entitled bills, viz:

No. 49. An act to prevent the selling of spirituous liquors to Indians, and

No. 50. An act to punish the venders of unwholesome liquors and provisions.

Said bills were then read a first time.

Mr. Grimes from the committee on the Judiciary, reported bill No. 51, entitled "An act concernig debtors and their securities, which was considered in committee of the whole, Mr. Brierly in the chair. After some time the committee rose and reported the bill with amendments, in which report and amendments the House concurred. The bill was then ordered to be engrossed and read a third time.

Mr. Grimes, from the committee on the Judiciary, reported the following entitled bill.

No. 52. An act to prevent and punish gambling, which was considered in committee of the whole, Mr. Burchard in the chair.

The committee arose and reported the bill with amendments.—The House concurred in the report, and the bill was ordered to be engrossed for a third reading.

Mr. Swan, according to notice, asked and obtained leave to amend the 27th standing rule of this House.

Mr. Frierson, from the committee on townships and county boundaries, to whom was re-committed bill No. 25, H. R. file, entitled A. bill to provide for the incorporation of townships, reported the same back to the House with amendments. Said bill was then considered in committee of the whole, Mr. Coop in the chair.

The committee arose, reported that they had made progress therein, and asked leave to sit again. Leave was granted.

The House adjourned to 2 o'clock, P. M.

2 O'CLOCK, P. M.

Mr. Toole, from the committee on enrollments, reported the following entitled bills as correctly engrossed, viz:

No. 40. H. R. file, A bill to authorize John H. Sullivan and Adrian H. Davenport, to establish and keep a ferry across the Mississippi river at the town of Rockingham.

No. 43. H. R. file, A bill to repeal an act of the Legislative Assembly of the Territory of Wisconsin, approved January 19, 1838.

Which bills were then severally read a third time, passed, and their titles agreed to.

Ordered, That said bills be sent to the Council for concurrence.

The House resolved itself into a committee of the whole, for the further consideration of bill No. 25, H. R. file, entitled A bill to provide for the incorporation of townships, Mr. Coop in the chair. After some time spent therein, the committee rose and reported the same with amendments, and

On the question, will the House concur in the report of the committee? It was determined in the affirmative.

The yeas and nays being called for, were as follow:

Yeas—Messrs. Bailey, Beeler, Delashmutt, Frierson, Grimes, Patterson, Parker, Price, Summers, Swan, Temple, and Toole—12.

Nays—Messrs. Brierly, Burchard, Coop, Cox, Hastings, Porter, Roberts, Taylor, Thornton and Mr. Wallace, Speaker—10.

Mr. Taylor moved to lay the bill on the table, until the 10th day of January next, which was decided in the negative.

Mr. Cox moved to lay the bill on the table until Thursday week, which was decided in the negative, and

On the question, shall the bill be engrossed and read a third time? it was decided in the affirmative.

The yeas and nays being called for were as follow:

Yeas—Messrs. Bailey, Beeler, Delashmutt, Frierson, Grimes, Patterson, Parker, Price, Summers, Swan, Temple and Toole—12.

Nays—Messrs. Brierly, Burchard, Coop, Cox, Hastings, Porter, Roberts, Taylor, Thornton and Mr. Speaker—10.

On motion the House adjourned.

Tuesday, December 11, 1838.

On motion of Mr. Bankson,

Resolved, That the Speaker be requested to assign to the sergeant-at-arms, door-keepers, messengers, and firemen, their several duties and stations in this House.

On motion of Mr. Beeler,

Resolved, That all petitions, applications, and bills, concerning roads and ferry charters; which may hereafter be made or intro-

duced during the present session, be referred to the standing committee on roads and highways, with instructions to devise if possible, means by which the Legislative Assembly may be relieved from the extraordinary burden of legislating thereon, with leave to report by bill or otherwise.

Bill No. 8, Council file, entitled "A bill concerning marriages," was on motion of Mr. Grimes, then considered in committee of the whole, Mr. Cox in the chair. After some time, the committee rose and reported the bill with amendments.

The question being put, will the House concur in the report of the committee? it was determined in the affirmative.

The yeas and nays being called for, were as follow, to wit:

Yeas—Messrs. Bankson, Bailey, Beeler, Blair, Brierly, Burchard, Coop, Cox, Frierson, Grimes, Hastings, Parker, Porter, Price, Roberts, Summers, Swan, Taylor, Temple, Thornton and Toole—21.

Nays—Mr. Wallace, Speaker—1.

Mr. Cox moved to strike out the 10th section of said bill, which was determined in the negative.

The yeas and nays being called for were as follow:

Yeas—Messrs. Bankson, Coop, Cox, Grimes, Parker, Porter, Roberts, Swan, Thornton and Wallace, Speaker—10.

Nays—Messrs. Bailey, Beeler, Blair, Brierly, Burchard, Frierson, Hastings, Price, Summers, Taylor, Temple and Toole—12.

Mr. Grimes moved to stike out the latter part of the 10th section. Lost:

The said bill was then ordered to be engrossed for a third reading.

The following message from the Council, was received by their Secretary.

Mr. Speaker,—

The Council have passed bills of the following titles, viz:

H. R. file, No. 6. An act providing for the establishment of common schools.

No. 22. An act relating to informations in the nature of quo warranto, and regulating the mode of proceeding thereon.

No. 23. An act to divide the county of Henry, and establish the county of Jefferson, with amendments.

Also No. 6. Council file, an act to organize, discipline and govern the militia of this Territory.

No. 16. An act for the limitation of actions, and for avoiding vexatious law suits.

No. 17. An act regulating the intercourse between the Legislative and Executive departments of the Territory of Iowa.

No. 18. An act concerning trespass on property, &c.

No. 19. An act to locate and establish a territorial road, &c. Also,

No. 36. H. R. file, An act to authorize Joseph Williams &c., to keep a ferry &c. with amendments; in all of which they ask the concurrence of the House.

Mr. Summers from the committee on roads and highways, reported bill No. 53, entitled A bill to authorize Ralph Letton, to establish and keep a ferry across the Mississippi river at the town of Parkurst, which bill was read a first time.

Mr. Taylor from the select committee, to which was referred on yesterday, bill No. 12, Council file, entitled A bill to locate a territorial road from Fort Madison in Lee county, to Mount Pleasant in Henry county, thence to Prairie La Porte in Clayton county, reported as a substitute therefor, a bill of the following title, to wit:

A bill to locate a road from Fort Madison in Lee county, to Trenton in Henry county; the said bill was then considered in committee of the whole, Mr. Frierson in the chair. After some time the committee rose, and reported the bill without amendment, in which the House concurred; the bill was then ordered to a third reading.

Mr. Cox from the select committee appointed for that purpose, reported a memorial to the Post Master General of the United States, which was read a first time, and is as follows:

To the HON. AMOS KENDALL, Post Master General.

Whereas, the mail from Davenport to Du Buque, in the Territory of Iowa, is carried once a week on horseback, under the existing contract with the Post Master General.

And whereas, many of the letters, public documents, and newspapers, from members of the Territorial Assembly, now in session at Burlington, to their constituents in the northern district, cannot in this manner be conveyed in due time, but remain at the Davenport Post office from week to week, to the great inconvenience of the people in the said northern section of the Territory.

And whereas, in order to remedy this inconvenience, authority has been given by the said Territorial Assembly, to the Post Master at Davenport, to carry the mail between that place and Du Buque, twice a week, in two horse coaches, during the time that the members of the said Assembly may be engaged in the discharge of their legislative duties.

Your memorialists, therefore, the Council and House of Representatives of the Territory of Iowa, most respectfully request that this arrangement may be sanctioned by the department, and that the extra expenses which may be incurred in conveying the mail between Davenport and Du Buque, in the manner and for the period herein before mentioned, may be paid out of the funds of the General Post Office.

Resolved, By the House, (the Council concurring therein) that the President of the Council and Speaker of the House, sign the foregoing memorial, and that the same be attested by the Secretary of the Council, and principal Clerk of the House, and forwarded to the Post Master General.

The committee of the whole, who had on yesterday, under consideration bill No. 41, H. R. file, entitled A bill subjecting real and personal estate to execution, resumed the same, Mr. Beeler in the chair. The committee, after some time spent therein, rose and reported said bill with amendments, in which the House concurred.

On motion of Mr. Taylor,

The House adjourned until 2 o'clock, P. M.

2 O'CLOCK, P. M.

The unfinished business of the morning being the disposition of bill No. 41, H. R. file, the same was,

On motion of Mr. Grimes,

Laid upon the table subject to the order of the House.

Mr. Swan from the committee on enrollments, reported that bill No. 11, Council file, had been presented this day to the Governor for his signature.

Bill No. 42, H. R. file, entitled "An act to allow and regulate the action of right," was then read a second time and considered in committee of the whole, Mr. Grimes in the chair. After some time the committee rose and reported the same to the House with amendments. The House concurred in the report of the committee, and said bill was ordered to be engrossed and read a third time.

Bill No. 46, H. R. file, entitled an act relating to strays was then taken up, read a second time, and considered in committee of the whole, Mr. Patterson in the chair. After some time, the committee rose and reported the same to the House with amendments, in which report and amendments the concurrence of the House was requested.

The House concurred in the report of the committee.

Mr. Grimes moved to amend by striking out the word "hogs" where the same occurs in said bill, and

On the question, will the House adopt the amendment? it was determined in the negative.

The yeas and nays being called for, were as follow:

Yeas—Messrs. Beeler, Burchard, Grimes, Hastings, Summers, Swan, Temple and Thornton—8.

Nays—Messrs. Bankson, Bailey, Blair, Brierly, Coop, Cox, Delashmutt, Frierson, Patterson, Porter, Price, Roberts, Taylor, Toole and Wallace, Speaker—15.

Mr. Grimes moved to lay the bill on the table until the 10th day of January next. Lost.

On motion of Mr. Hastings,

The bill was recommitted to the committee who reported the same.

Bill No. 27, H. R. file, entitled "An act concerning divorce," was then read a second time; and,

On motion of Mr. Summers,

The House resolved itself into a committee of the whole, Mr. Porter in the chair. The committee rose, reported the bill under consideration with amendments, and asked the concurrence of the House. The House concurred.

Mr. Taylor moved to strike out the word "three" in the fifth line of the first section, and insert "two."

The yeas and nays being called for on the amendment, were as follows:

Yeas—Messrs. Bailey, Coop, Cox, Grimes, Hastings, Patterson, Price, Summers, Taylor and Mr. Speaker—10.

Nays—Messrs. Bankson, Beeler, Blair, Brierly, Burchard, Delashmutt, Frierson, Parker, Porter, Roberts, Swan, Temple, Thornton and Toole—14.

So the amendment was lost.

Mr. Taylor then moved to amend the second section by striking out "two" and inserting "one."

The question being on the adoption of the amendment,
The yeas and nays were called for, and were as follow:

Yeas—Messrs. Bailey, Blair, Coop, Cox, Grimes, Hastings, Patterson, Porter, Price, Summers, Taylor and Wallace, Speaker—12.

Nays—Messrs. Bankson, Beeler, Brierly, Burchard, Delashmutt, Frierson, Parker, Roberts, Swan, Temple, Thornton and Toole—12.

So the amendment was lost.

Mr. Taylor then moved to strike out the word "three" in the 5th line of the first section. The question being then put, shall the word "three" be stricken out? it was determined in the affirmative.

And the yeas and nays being called for were as follow:

Yeas—Messrs. Bailey, Blair, Brierly, Coop, Cox, Grimes, Hastings, Patterson, Porter, Price, Summers, Taylor and Wallace, Speaker—13.

Nays—Messrs. Bankson, Beeler, Burchard, Delashmutt, Frierson, Parker, Roberts, Swan, Temple, Thornton and Toole—11.

The question was then upon the filling up of the blank made by the last vote. Mr. Hastings moved that it be filled with the word "two."

Whereupon the yeas and nays were called for and are as follow:

Yeas—Messrs. Bailey, Beeler, Blair, Burchard, Coop, Cox, Frierson, Grimes, Hastings, Patterson, Porter, Price, Summers, Taylor and Wallace, Speaker—15.

Nays—Messrs. Bankson, Brierly, Delashmutt, Parker, Roberts, Swan, Temple Thornton and Toole—9.

So the blank was filled with the word "two."

Mr. Taylor then moved to amend the third line of the second section, as follows:

Strike out "two" and insert "one." Lost.

Mr. Bailey moved that the bill be re-committed, which was not agreed to.

The question then recurred, "shall the bill be engrossed and read a third time?" it was decided in the affirmative.

Mr. Beeler gave notice that he should at a future day, by leave, introduce bills of the following titles: "A bill regulating weights and measures," "A bill to prohibit the wearing concealed weapons," "A bill for the relief of sureties of persons charged with criminal offences." Messrs. Beeler, Swan and Porter, were appointed a committee to prepare said bills.

Mr. Hastings gave notice that he should, by leave, at a future day introduce a bill to prescribe the mode of proving in courts of the Territory, judgments rendered by justices of the peace, in the several States. Leave was granted, and Messrs. Hastings, Grimes and Cox, were appointed the committee to prepare the bill.

Mr. Taylor gave notice that he should, by leave, at a future day introduce a bill to authorize the clerks of circuit courts, and of the boards of county commissioners, to appoint deputies in certain cases. Leave was granted, and Messrs. Taylor, Beeler and Roberts, were appointed a committee to prepare the same.

Bill No. 22, H. R. file, entitled "An act relating to informations in the nature of quo warranto, and regulating the mode of proceeding thereon" as amended by the Council, was taken up; when the House

disagreed to amendments in section 19, and amended the last section, and concurred in all the other amendments, made by Council to said bill.

Bill No. 6, H. R. file, entitled "A bill providing for the establishment of common schools," as amended by the Council, was taken up, and the amendments to 1st, 3d and 12th sections concurred in, and the amendments made to the 6th section disagreed to, and the word "respective" in the 15th section, added by Council, stricken out.

Ordered, That the Council be informed.

Mr. Swan, from the committee of conference who were appointed to confer with a like committee of the Council respecting a disagreement to an amendment of the 22d section of bill No. 17, H. R. file, reported,

That having the same under consideration they agree with the committee from the Council that the amendment made by the Council should be agreed to, and ask this House to concur. The House concurred in the report.

Bills No's. 23 and 26. were then taken up, and the amendments made to the same by the Council, were concurred in.

Bills No, 16, 17, 18 and 19, Council file, were taken up and read a first time.

Bill No. 17, Council file, was then taken up and considered in committee of the whole, Mr. Roberts in the chair. The committee after some time, rose and reported the same with amendments, in which report and amendments the House concurred. The said bill was then ordered to be engrossed for a third reading.

The House adjourned.

Wednesday, December 12, 1838.

Mr. Bailey presented the petition of 360 citizens of Van Buren county, praying that a charter be granted to Wm. Meek & Co. to erect a mill dam, with a lock attached, across the Des Moines river, for hydraulic purposes, and the improvement of the navigation of said river, &c.

On motion of Mr. Bailey,

Said petition was referred to the committee on corporations.

On motion of Mr. Cox,

Resolved, That the committee on Territorial Affairs be instructed to inquire into the expediency of creating the office of Territorial Treasurer and defining his duties, and that they report by bill or otherwise.

On motion of Mr. Brierly,

Resolved, That the committee on roads and highways, be instructed to enquire into the expediency of establishing a territorial road from Keokuk on the Mississippi river, to Mount Pleasant in Henry county.

Mr. Taylor offered the following:

Resolved, That the Secretary of the Territory be requested to inform this House, whether he considers a resolution of this House signed by the Speaker, and countersigned by the chief clerk, a sufficient warrant upon which to pay out money, which was laid on the table.

Mr. Taylor offered the following:

Resolved, That the select committee to whom was referred the communication of the Secretary of the Territory of the 7th inst. be instructed not to report on the same, until called upon by this house.

The resolution was lost.

Mr. Beeler from the special committee appointed on yesterday for that purpose, reported bills of the following titles, to wit:

No. 54, An act regulating weights and measures.

No. 55, An act to prohibit the wearing of concealed weapons;

And No. 56, An act for the relief of the securities of persons charged with criminal offences.

Said bills were then severally read a first time.

Mr. Beeler from the committee on enrolments, reported as correctly engrossed, the following entitled bills, H. R. file:

An act for the relief of the poor.

An act concerning divorces.

An act concerning debtors and their securities; and

An act to prevent and punish gaming.

Mr. Price from the same committee, also reported bill No. 25, H. R. file, entitled a bill to provide for the incorporation of townships, as correctly engrossed.

Mr. Porter from the select committee appointed for the purpose of preparing bill No. 57, H. R. file, entitled an act to establish a territorial road from the town of Trenton, in Henry county, to the boundary line of Jefferson county, reported the same. Read a first time.

Mr. Patterson from the committee on expenditures, which had been instructed to present a memorial to Congress, asking for a further appropriation to defray the expenses of the present Legislative Assembly, reported a memorial, which was read a first time; and is as follows:

To the Honorable the Senate and House of Representatives of the United States, in Congress assembled.

Your memorialists, the Council and House of Representatives of the Territory of Iowa, would respectfully represent, That they are obliged to apply to Congress for an additional appropriation to defray the expenses of the Territorial government of Iowa.

Congress at its last session appropriated \$24,675 for this purpose, from which is to be subtracted the salaries of the Governor, Judges of the Supreme Court, District Attorney and Marshal, leaving a balance of but \$15,725 to defray the expenses of the Legislative Assembly.

The per diem of members and their mileage amounts to about \$10,000, leaving but \$5,725 to furnish and pay the rent of the Legislative Chambers, and committee rooms, to procure the stationa-

ry, and pay the freight of the same to its seat of government, to pay for printing the laws of this Assembly, and the journals of the two houses; the pay of the officers of the House; furnishing a room for the Territorial Library; the expenses of ordering the elections, &c.

Your honorable body must be aware of the many small sums of money necessary to be disbursed in starting a new territorial government. Many difficulties are to be encountered, every necessary is obtained at a high price.

Your memorialists would respectfully ask your honorable bodies for an additional appropriation of \$16,354, which, in the opinion of your memorialists, will be sufficient to cover the expenses of this session of the Legislative Assembly and the pay of the Government officers.

Mr. Grimes, from the Judiciary committee, according to previous instruction, reported bill No 58, entitled an act to provide for the appointing of Justices of the Peace, to prescribe their powers and duties, &c. which was considered in committee of the whole, Mr. Summers in the chair. The committee rose after some time, reported progress, and asked leave to sit again. Leave was granted.

Message from the Council, by their Secretary, Mr. Wallace.

Mr. Speaker,

The Council have passed bills of the following titles, viz:

No. 20, Council file, entitled An act to locate and establish a territorial road, &c.

No. 21, Council file, entitled "An act to establish a seminary of learning, &c. Als),

No. 16, H. R. file, entitled An act to provide for the election of county treasurers, &c. with amendments.

In all of which the concurrence of the House of Representatives is requested. Also,

Bill No. 2, H. R. file, entitled an act to make valid and good in law the acts of Robert G. Roberts, &c. without amendment.

And then he withdrew.

Mr. Hastings, from the select committee to which was recomitted Bill No. 7, entitled "a bill regulating interest on money, &c." reported the same back to the House with amendments.

On motion, the House resolved itself into a committee of the whole on said bill, Mr. Swan in the chair. The committee rose, after some time, and reported the bill with amendments.

The House concurred; when

Mr. Taylor moved to strike out "twenty" and insert "fifteen" wherever the same are found in said bill.

The yeas and nays were called for, and are as follow; to wit:

Yeas—Messrs. Bankson, Cox, Patterson, Roberts, Taylor, and Toole—6

Nays—Messrs. Bailey, Beeler, Blair, Brierly, Burchard, Coop, Delashmutt, Frierson, Grimes, Hastings, Parker, Porter, Price, Summers, Swan, Temple, Thornton and Wallace, Speaker—18.

So the amendment was negatived.

Mr. Swan moved to strike out "twenty" and insert "twelve;" which was determined in the negative.

The yeas and nays having been ordered, were as follow:

Yeas—Messrs. Bankson, Cox, Patterson, Roberts, Swan, Taylor, Thornton and Toole—8.

Nays—Messrs. Bailey, Beeler, Blair, Brierly, Burchard, Coop, Delashmutt, Frierson, Grimes, Hastings, Parker, Porter, Price, Summers, Temple and Wallace, Speaker—16.

Mr. Temple moved to strike out the 3d section; which was decided in the negative.

Mr. Cox moved to strike out "twenty" wherever it occurs; which was not agreed to.

Mr. Delashmutt moved to strike out "six," in the second section, and insert "twenty;" to which motion the House disagreed.

Mr. Delashmutt then moved that the word "six" be stricken out, in second section.

The yeas and nays, on the motion, being called for, are as follow:

Yeas—Messrs. Bailey, Delashmutt, Grimes and Parker—4.

Nays—Messrs. Bankson, Beeler, Blair, Brierly, Burchard, Coop, Cox, Frierson, Hastings, Patterson, Porter, Price, Roberts, Summers, Swan, Taylor, Temple, Thornton, Toole and Wallace, Speaker—20

So the motion was lost.

Mr. Burchard moved to strike out "six" and insert "seven;" when Mr Bankson called for a division of the question, first on striking out "six."

And the yeas and nays thereon being called for are as follow:

Yeas—Messrs. Bailey, Blair, Burchard, Delashmutt, Grimes, Parker and Thornton—7.

Nays—Messrs. Bankson, Beeler, Brierly, Coop, Cox, Frierson, Hastings, Patterson, Porter, Price, Roberts, Summers, Swan, Taylor, Temple, Toole and Wallace, Speaker—17.

So the question of striking out "six" was decided in the negative.

The question then recurred upon the engrossment and third reading of the bill; whereupon, on motion of Mr. Bailey, it was determined in the affirmative.

The House adjourned until 2 o'clock, P. M.

2 O'CLOCK, P. M.

On motion of Mr. Taylor,

Resolved, That the Editor of the Burlington Patriot, be requested to furnish each member of this House with ten copies of his paper, as often as the same may be published during this session of the Legislative Assembly, and that the Secretary of the Territory be instructed to pay for the same out of the contingent fund.

On motion of Mr. Hastings,

Resolved, That the committee on Roads and Highways be instructed to inquire into the expediency of establishing a territorial road, from the town of Wyoming, in Muscatine county, by way of the town of Moscow, to the town of Napoleon, the county seat of Johnson county.

Mr. Frierson, from the select committee to which was referred the communication of the Secretary of the Territory, accompanied

by a communication to that officer from the Governor, submitted the reports of both the majority and minority of said committee; which were read.

The said reports were then, on motion of Mr. Bailey, laid upon the table.

A message from the Council, by their Secretary.

Mr. Speaker,—

The Council have adopted the following resolution, in which they ask the concurrence of the House:

Resolved by the Council and House of Representatives, That it be made the duty of the messengers of each House, whenever a bill is printed to furnish each and every member of both branches of the Legislative Assembly with a copy of said bill.

The Council have also concurred in the amendment made by the House of Representatives to bill No. 9 of Council, entitled An act to incorporate the City of Du Buque.

And then he withdrew.

On motion of Mr. Grimes,

Leave of absence until Friday next, was granted to Mr. Delash-mutt.

Bill No. 49, H. R. file, entitled An act to prevent the selling of spirituous liquors to Indians, was taken up, read a second time, and ordered to be considered in committee of the whole, Mr. Temple in the chair. After some time spent therein, the committee rose and reported the same to the House without amendment. The report of the committee was concurred in, and the bill ordered to be engrossed for a third reading.

Bill No. 50, H. R. file, entitled An act to punish the vendors of unwholesome liquors and provisions, was read a second time.

The House then resolved itself into a committee of the whole on the same, Mr. Toole in the chair. After a short time the committee rose, reported the bill to the House with amendments, and asked its concurrence. The House concurred in the committee's report.

The bill was then ordered to be engrossed and read a third time.

Bill No. 16, Council file, A bill for the limitation of actions, and for avoiding vexatious law suits, was read a second time. The House then resolved itself into a committee of the whole for the consideration of said bill, Mr. Taylor in the chair. The committee rose after some time, and reported the same to the House without amendment; in which report the House concurred, and,

On motion of Mr. Grimes, said bill was laid upon the table.

Bill No. 18, Council file, entitled An act concerning trespass on property, &c. was read a second time and considered in committee of the whole, Mr. Parker in the chair. After a short time spent therein, the committee rose and reported the bill with amendments. The House concurred, and

On motion of Mr. Taylor,
Ordered, that said bill be referred to a select committee.

On motion of Mr. Grimes,
The last motion was reconsidered; when,

On motion of Mr. Beeler,

The House ordered that the bill under consideration be referred to the committee on the Judiciary, with instructions that it advise with the Judges of the Supreme Court.

The Speaker announced a communication from the Judges of the Supreme Court which was read, and is as follows:

BURLINGTON, DEC. 11, 1838.

To the Honorable the Speaker of the House of Representatives.

SIR,—We herewith transmit the enclosed bill, which we beg leave to submit to the consideration of the Legislative Assembly, in compliance with a joint resolution of that body.

Yours, very respectfully,

CHARLES MASON,
T. S. WILSON,
JOSEPH WILLIAMS.

Bill No. 59, being the one referred to in the foregoing communication, entitled "an act to provide for the partition of real property," was then read a first time.

Bill No. 19, Council file, entitled "an act to locate and establish a territorial road from the town of Wapello, in Louisa county, to the town of Du Buque, &c." was read a second time and

Ordered, That the House resolve itself into a committee of the whole, Mr. Hastings in the chair, for the consideration of the same. After a short time, the committee rose, and by their chairman, reported the bill to the House with amendments. The House concurred in the report, and the bill,

On motion of Mr. Cox,

Was referred to the committee on Roads and Highways.

Memorial to the Post Master General, reported on this morning by the chairman of the select committee, which was appointed to prepare the same, was next read a second time, when the House resolved itself into a committee of the whole, on said memorial, Mr. Bankson in the chair. After some time the committee rose and reported the same without amendment. The House concurred in the report of the committee, and

On motion of Mr. Summers,

The 16th standing rule of the House was suspended in reference to said memorial. It was then read a third time and passed.

Bill No. 20, Council file, entitled "an act to locate and establish a territorial road, from the ferry landing opposite Oquawka &c. was then read a first time, and ordered to be referred to the committee on Roads and Highways.

Bill No. 21, Council file, entitled "an act to establish a seminary of learning at Wapello, in Louisa county, was then taken up and read a first time.

Bill No. 53, H. R. file, entitled "an act to authorise Ralph Letton, to establish and keep a ferry across the Mississippi river at the town of Parkhurst, was read a second time, and

Ordered, That the House resolve itself into a committee of the whole, for the consideration thereof, Mr. Bailey in the chair. The committee after a short period, rose and reported the bill with amendments. The House concurred in the report, and,

On motion of Mr. Grimes,

Ordered, That the word "ten" be stricken from said bill, and the word "twelve" inserted instead thereof.

Mr. Frierson moved to amend the third section as follows:

Strike out all after the word "from," and insert the words "the time when the land shall be sold and the proprietor obtain an evidence of title to the landing on the Iowa shore." The amendment was lost.

Mr. Temple moved to amend the bill, by inserting the word "half" between the words "one" and "mile," to which the House disagreed.

The question being then put, "shall the bill be engrossed and read a third time?" it was determined in the affirmative.

Bill No. 8, Council file, entitled an act concerning marriages, was taken up, and,

On motion of Mr. Taylor,

Ordered, that said bill be recommitted to the select committee who heretofore had the same under consideration.

Bill No. 12, Council file, entitled a bill to locate a territorial road from Fort Madison &c. was then read a third time, passed, and the title agreed to.

Bill No. 17, Council file, entitled an act regulating the intercourse between the Legislative and Executive departments of the territory of Iowa, being next under consideration, was read a third time, passed, and the title agreed to.

Ordered, that the Council be informed.

Bill No. 25, H. R. file, entitled a bill to provide for the incorporation of townships, was read a third time, and on the passage of the same,

The yeas and nays were called for and are as follow:

Yeas—Messrs. Bailey, Beeler, Blair, Frierson, Grimes, Patterson, Parker, Price, Summers, Swan, Temple and Toole—12.

Nays—Messrs. Bankson, Brierly, Burchard, Coop, Cox, Hastings, Porter, Roberts, Taylor, Thornton and Wallace, Speaker—11.

So the bill passed and the title thereof agreed to.

Ordered, that said bill be sent to the Council for concurrence.

Bill No. 27, H. R. file, entitled "an act concerning divorce," was next read a third time;

And the yeas and nays being called for on its passage, were as follow:

Yeas—Messrs. Bailey, Beeler, Blair, Burchard, Grimes, Hastings, Porter, Price, Summers and Temple,—10.

Nays—Messrs. Bankson, Brierly, Coop, Cox, Frierson, Patterson, Parker, Roberts, Swan, Taylor, Thornton, Toole and Wallace, Speaker—13.

So the bill was lost.

Bill No. 52, H. R. file, a bill to prevent and punish gambling, was taken up, and read a third time; when Mr. Porter moved that the bill be recommitted; which was not agreed to.

The yeas and nays being called for, on the passage of the bill, were as follow:

Yeas—Messrs. Bankson, Bailey, Beeler, Blair, Brierly, Burchard, Cox, Frierson, Grimes, Hastings, Patterson, Price, Roberts, Summers, Swan, Taylor, Temple, Thornton and Wallace, Speaker—19.

Nays—Messrs. Coop, Parker, and Porter—3.

So the bill passed, and the title thereof was agreed to.

No. 51, H. R. file, entitled an act concerning debtors and their securities, was then taken up, read a third time, passed, and the title thereof agreed to, and

Ordered, That the clerk request the concurrence of the Council.

On motion, the House adjourned.

Thursday, December 13, 1838.

Mr. Burchard presented a remonstrance of inhabitants of Scott county, against any alteration in the boundary lines of said county, which was,

On motion, referred to the committee on townships and county boundaries.

Mr. Grimes presented the petition of 163 citizens, of the county of Des Moines, asking for the establishment of a territorial or other road leading from the town of Burlington, on or near the township line which runs through said town, to the Des Moines river. The petition was referred to the committee on roads and highways.

On motion of Mr. Summers,

Resolved, That the committee on roads and highways, be instructed to inquire into the expediency of establishing a territorial road from the town of Camanche in Clinton county, by way of Brophay's ferry, and Sanbornton, to Elkford in Jones county.

On motion of Mr. Taylor,

The following preamble and resolution was adopted:

Whereas, in the opinion of this House, the Secretary of this Territory is the only disbursing officer known to the organic law: therefore,

Resolved, That the Hon. Wm. B. Conway, Secretary of this Territory, be hereby instructed and required to pay the subordinate officers of this House, three dollars per day for their attendance upon the same, and the chief clerk six dollars per day, upon the presentation of a certificate signed by the speaker and countersigned by the chief clerk, stating the number of days they have served; which shall be a sufficient voucher to him as a disbursing agent of the Territory.

Mr. Parker, from the select committee appointed to prepare bill No. 60, entitled An act to locate and establish a territorial road from Keasauqua in Van Buren county, to the county seat of Jefferson county, reported the same, which was referred to the committee on roads and highways.

Mr. Hastings, from select committee, according to notice, reported bill No. 61, entitled A bill to restrain unincorporated banking associations. Read a first time by its title.

Mr. Taylor, from select committee, appointed for the purpose of preparing bill No. 62, entitled An act to authorize clerks of the circuit and county commissioners courts, to appoint deputies in certain cases, reported the same; which was read a first time by its title.

Mr. Swan, from the committee on corporations, reported bill No. 63, entitled An act to authorize Wm. Meek & sons to erect a dam across the Des Moines river. Said bill was then read a first time by its title.

Mr. Summers asked and obtained leave to introduce a memorial to Congress, for the benefit of those settlers of section sixteen of the public lands, who occupied the same before United States surveys.

The chair then appointed Messrs. Summers, Patterson and Bankson, a committee to prepare said memorial.

Mr. Toole, from the select committee appointed for that purpose, reported a memorial to Congress, asking for an appropriation at the present session of that body, sufficient to defray the expenses of the improvement of the navigation of the Iowa and Cedar rivers; which memorial was read a first time.

Mr. Hastings, from select committee, reported bill No. 64, entitled A bill to prescribe the mode of proving, in courts of this Territory, judgments rendered by justices of the peace in the several states; which was read a first time by its title.

Mr. Burchard, asked leave to bring in a bill at a future day, providing for the organization of the county of Clinton. Leave was granted, and Messrs. Burchard, Taylor and Porter, were therefore appointed by the chair, a committee to prepare the bill.

Mr. Hastings gave notice, that he should by leave at a future day, introduce A bill, entitled a bill for the support of illegitimate children. Leave was granted: the chair then appointed Messrs. Hastings, Taylor and Porter, a committee to prepare said bill.

Mr. Beeler asked and obtained leave at a future time, to introduce a bill declaring what laws shall be in force. Messrs. Beeler, Frierson and Coop, were then appointed a committee to prepare the bill.

On motion of Mr. Grimes,

Ordered, That the committee on corporations, be instructed to prepare and report to this House, a memorial to Congress asking for an appropriation of lands for the construction of a rail road, from Burlington to Mount Pleasant in Henry county, thence to the line of the State of Missouri in Van Buren county.

Mr. Frierson, asked and obtained leave to introduce a bill providing for the incorporation of the Bloomington and Cedar river canal company. The chair then appointed a committee to prepare and report the same, consisting of Messrs. Frierson, Coop and Temple.

Mr. Taylor asked leave at a future day to introduce a memorial asking of Congress, a donation of land to construct a rail road from Fort Madison, by way of West Point, to the county seat of Van Buren county. Leave was granted; Messrs. Taylor, Parker and Porter, were appointed a committee to prepare the bill.

Bill No. 21, Council file, entitled "An act to establish a seminary of learning at Wapello in Louisa county, was then read a second time and considered in committee of the whole, Mr. Beeler in the chair. After some time, the committee rose and reported the bill to the House without amendment. The House concurred in the report:

Mr. Grimes then moved the second section of the bill be stricken out, which was disagreed to. Said bill was then ordered to be engrossed for a third reading.

The memorial to Congress, reported on yesterday by the committee on expenditures, was then taken up, read a second time, and ordered to be considered in committee of the whole, Mr. Blair in the chair. After some time spent therein the committee rose and reported the same without amendment, in which the House concurred. The memorial was then ordered to be engrossed for a third reading.

Bill No. 48, H. R. file, entitled A bill for the relief of the poor, was then read a third time, passed, the title agreed to, and ordered to be sent to the Council for concurrence.

No. 16, H. R. file, entitled, An act to provide for the election of county Treasurer, and report their duties as amended by the Council, was taken up, and the amendment in the first section concurred in, and the amendments to the 5th and 7th sections disagreed to.

The resolution adopted yesterday by Council, with regard to the messengers of both Houses, was concurred in.

Ordered, That the Council be informed.

Bill No. 58, H. R. file, was again taken up and considered in committee of the whole, Mr. Summers in the chair. After a short time, the committee rose and reported the bill to the House without amendment, in which the House concurred.

On motion of Mr. Cox,

The said bill was ordered to be referred to a select committee. Messrs. Cox, Grimes, Hastings, Taylor and Roberts, were appointed said committee.

On motion of Mr. Patterson,

The vote taken yesterday, on No. 27, An act concerning divorces, was reconsidered, and the question was then put, shall the bill pass? which was decided in the affirmative, and the title thereof agreed to.

On motion of Mr. Summers,

The House adjourned until 2 o'clock P. M.

2 O'CLOCK, P. M.

Mr. Price, from the committee on enrollments reported as correctly engrossed bills of the following titles:—No. 7, "A bill regulating interest on money in the Territory of Iowa."

No. 49, "An act to prevent the selling of spirituous liquors to Indians;" and,

No. 50, "An act to punish the venders of unwholesome liquors and provisions."

The Speaker announced a communication from the Hon. Wm. B. Conway, Secretary of the Territory, which was read, and is as follows:

SECRETARY'S OFFICE, }
Dec. 18, 1838.

To the Honorable the Speaker of the House of Representatives.

Sir,—The Secretary of the Territory, has the honor to acknowledge the receipt of a resolution, adopted by the House of Representatives, during the morning session of this day, to which (at the afternoon session of to-morrow) he will promptly return a decisive reply—and in the mean time he remains, very respectfully,

Your obedient servant,

WM. B. CONWAY,

Secretary of the Territory.

Mr. Swan, presented the petition of Jacob Bailey, an inhabitant of the county of Clinton, praying to be divorced from his wife Nancy Bailey, which was, on motion, referred to a select committee.

The chair appointed Messrs. Swan, Summers, Frierson, Toole and Parker, said committee.

Mr. Beeler, from the committee on enrollments reported as correctly engrossed, the following entitled bills, to wit:

No. 42, An act to allow and regulate the action of right.

No. 53, An act to authorize Ralph Letton, to establish and keep a ferry across the Mississippi river at the town of Parkhurst.

The following message from the Council was then received by their Secretary.

Mr. Speaker,—

The Council have concurred in memorial of the House to the Congress of the United States, on the subject of pre-emption rights to owners of mineral lots.

The Council have also passed bills of the House, as follows, with amendments:

An act to authorize J. S. Kirkpatrick, to keep a ferry, &c.

An act defining the duties of county surveyors.

An act to regulate ferries.

An act to provide for the collection of demands against boats and vessels; in all of which the concurrence of the House is requested.

The Council have also passed bill No. 23, Council file, An act to authorize the Legislative Assembly to punish for contempt, and to privilege members from arrest; in which the concurrence of the House is also requested.

The Council have also passed bills of the House of the following titles, without amendment:

An act to repeal an act of the Legislative Assembly, of the Territory of Wisconsin, approved January 19, 1838.

An act to authorize John H. Sullivan, &c. to keep a ferry, &c.

An act relating to Mechanics' liens.

An act to locate and establish a territorial road from Keokuk, &c. And then he withdrew.

Bill No. 41, H. R. file, entitled An act subjecting real and personal estate to execution, was then taken up.

Mr. Taylor then moved to amend the fourth section of said bill, by inserting between the words "calf" and "not," the words "one horse or a yoke of oxen."

The yeas and nays being called for on the adoption of the amendment, were as follow:

Yeas—Messrs. Beeler, Blair, Brierly, Coop, Cox, Frierson, Grimes, Hastings, Patterson, Parker, Roberts, Taylor, Temple, Thornton and Toole—15.

Nays—Messrs. Bailey, Burchard, Price, Summers, Swan, and Wallace, Speaker—6.

So the amendment was adopted.

Mr. Beeler, then moved to amend the fourth section of the bill, by inserting therein, the words "the stock in trade of merchants."

The yeas and nays being called for on the adoption, of this amendment, were as follow:

Yeas—Mr. Beeler—1.

Nays—Messrs. Bailey, Blair, Brierly, Burchard, Coop, Cox, Frierson, Grimes, Hastings, Patterson, Parker, Price, Roberts, Summers, Swan, Taylor, Temple, Thornton, Toole and Wallace, Speaker—20.

The amendment was lost.

On motion of Mr. Swan,

The 4th section was amended by adding to the same the following:

"Provided said libraries shall not contain more than one hundred dollars, worth of books."

Mr. Bailey moved to commit the bill under consideration, to a select committee; the motion was disagreed to.

Mr. Grimes then moved that the words, "in sixty days after the issuing of the same" be inserted in the second line of the 21st section of said bill, which was agreed to.

Mr. Taylor offered the following amendment:

In the third line of the 12th section strike out the words "sixty days" and insert in lieu thereof, the words "six months."

The yeas and nays on the question of the adoption of the same, were as follow:

Yeas—Messrs. Bailey, Beeler, Brierly, Roberts, Summers, Taylor, Toole and Wallace, Speaker—8.

Nays—Messrs. Blair, Burchard, Coop, Cox, Frierson, Grimes, Hastings, Paterson, Parker, Price, Swan, Temple and Thornton—13.

So the amendment was not agreed to.

Mr. Taylor moved to amend the 12th section, by striking out "sixty days" and inserting "four months."

Mr. Swan offered the following as a substitute in the 2d line of said section: insert after the word follows "on all sums over one thousand dollars, a stay of six months, on all sums less than one thousand and over five hundred dollars, a stay of three months, and all smaller sums, a stay of sixty days." Which was adopted.

Mr. Grimes moved that the bill be referred to a select committee, which was not agreed to.

Ma. Bailey moved to amend the third section by adding thereto the following: "Provided, That the owner of any real estate sold under the provisions of this act may redeem the same at any time within one

year from such day of sale, by paying the purchase money, together with twenty per centum interest on the same."

The amendment was adopted.

On motion of Mr. Swan,

The following was added to the end of the 12th section of the bill to wit:

"The stay under this act in the above cases, shall be in force one year from and after the passage of this act and no longer, and then only on contracts already made."

The bill was then ordered to be engrossed and read a third time.

Mr. Grimes, from the committee on the Judiciary, reported bill No. 65, entitled A bill to prevent disasters on steam boats navigating the waters within the jurisdiction of this Territory, which was read a second time and considered in committee of the whole, Mr. Brierly in the chair. After some time, the committee rose and reported the bill with amendments. The House concurred in the report of the committee, and the bill was ordered to be engrossed for a third reading.

Bill No. 7, H. R. file, entitled a bill regulating interest on money in the Territory of Iowa, was then taken up and read a third time.

The question being upon the passage of the bill, the yeas and being called for, were as follow:

Yeas—Messrs. Bailey, Beeler, Brierly, Burchard, Coop, Frierson, Grimes, Hastings, Patterson, Parker, Price, Roberts, Summers, Temple, Thornton, Toole and Wallace, Speaker—17.

Nays—Messrs. Blair, Cox, Swan and Taylor—4.

So the bill passed, the title thereof was agreed to, and

Ordered, That it be sent to the Council for concurrence.

Bill No. 42, H. R. file, entitled A bill to allow and regulate the action of right.

Bill No. 50, H. R. file, entitled A bill to punish the venders of unwholesome liquors and provisions.

Bill No. 53, H. R. file, entitled A bill to authorize Ralph Letton, to establish and keep a ferry across the Mississippi river, at the town of Parkhurst, were severally read a third time, passed and their titles agreed to.

Bill No. 49, H. R. file, entitled A bill to prevent the selling of spirituous liquors to Indians, was read a third time.

Mr. Grimes asked and obtained the unanimous consent of the House, to amend the bill by adding to the first section the following words: "to make complaint of such violations of this law as come within their knowledge;" the bill was then passed and the title agreed to.

Ordered, That said bills be sent to the Council for concurrence.

Bill No. 55, H. R. file, entitled "A bill to prohibit the wearing of concealed weapons," was taken up, read a second time, and considered in committee of the whole, Mr. Burchard in the chair. After some time spent therein, the committee arose and reported the bill without amendment, in which the House concurred.

Mr. Grimes moved to strike out the 6th line, which was not agreed to.

Mr. Cox moved to insert "dirk knife or bowie knife" which was lost.

Mr. Cox then called for the previous question, and the bill was ordered to be engrossed for a third reading.

Bill No. 56, H. H. file, entitled "A bill for the relief of securities of persons charged with criminal offences," was then read a second time and considered in committee of the whole, Mr. Coop in the chair. After sometime spent therein, the committee arose and reported the same with an amendment in which the House concurred. The bill was then ordered to be engrossed for a third reading.

On motion the House adjourned.

Friday, December 14, 1838.

The minutes of yesterday were read and corrected.

Mr. Summers presented the petition of citizens of Scott county, asking for an alteration of the boundaries of said county.

The petition was referred to the committee on townships and county boundaries.

Mr. Burchard presented the petition of inhabitants of Clinton county, praying that a charter may be granted to Elijah Buel and George W. Harlan, to keep a ferry at the town of Lyons. Which was referred to the committee on roads and highways.

Mr. Frierson presented the petition of citizens of Muscatine county, praying for an alteration in lines of said county, which was referred to the committee on townships and county boundaries.

Mr. Grimes presented a petition numerously signed, of inhabitants of Henry and Des Moines counties, praying that a range of townships be added to the west side of the said county of Des Moines: the petition was referred to the committee on townships and county boundaries.

Mr. Summers offered the following:

Whereas the members of this body have been politely furnished with a specimen copy of the Pittsburg Saturday Evening Visitor, and whereas we find it well filled with interesting literary matter, therefore,

Resolved, That we recommend it to the citizens of Iowa Territory, as a highly useful family newspaper. The resolution was lost.

On motion of Mr. Beeler,

The following preamble and resolution was adopted:

Whereas it is desirable to have an interchange of statute laws with the several States and Territories of the Union, therefore, be it resolved by the Council and House of Representatives of the Territory of Iowa, that a copy of the statute laws of this Territory, be transmitted by the Secretary of the Territory, to each of the Secretaries of state of the several States and Territories, accompanied with a request, soliciting an interchange of statute laws with them; and that he is hereby instructed to keep a book, in which he shall enter the date of the times he may receive and transmit such laws, and that he make report of his proceedings therein, at the next session of the Legislative Assembly.

Mr. Summers from the committee on roads and highways, to which had been referred a resolution instructing them to inquire into the expediency of establishing a territorial road from Mount Pleasant in Henry county, to Moscow in Muscatine county, made report thereon.

The report was concurred in.

Mr. Swan from the committee on enrollments, reported a joint resolution respecting the providing of seals for the several courts of this Territory, as correctly enrolled.

Bill No. 44, H. R. file, entitled A bill concerning the seat of justice of Scott county, was read a second time and considered in committee of the whole, Mr. Cox in the chair. The committee, after some time, rose and reported the bill with amendments. The House concurred in the report of the committee.

Mr. Taylor, offered the following as an amendment to be added at the end of the fourth line of the 2d section of said bill: "or any day thereafter, which may be agreed upon by a majority of said commissioners, provided such time may not extend beyond the first day of March next." The amendment was adopted.

Mr. Bailey moved to amend the third section by erasing the first syllable of the word "illegal;" which was agreed to.

On motion of Mr. Grimes,

The following was added after the word "county," in the last line of the 5th section of said bill as an amendment to said section:

"Until the seat of justice of said county shall be established as herein provided, all writs and process which by law are returnable to the district court of said county shall be valid if made returnable to the said court at the next term thereof without specifying the place, and all parties, witnesses, jurors, and other persons required to appear before said court at said term, shall appear at the place declared to be the county seat by the before mentioned commissioners, and if the county seat is not declared before the first day of said term of the court the said court shall be held at the town of Davenport."

The bill was then ordered to be engrossed for a third reading.

Bill No. 45, H. R. file, was taken up, read a second time, and,

On motion of Mr. Grimes,

Ordered to lie on the table two weeks.

Mr. Taylor asked and obtained leave to introduce a bill to establish the boundaries of Lee county. Messrs. Taylor, Patterson and Temple, were appointed a committee to prepare the same.

Memorial to Congress asking for an appropriation by Congress, for the improvement of the navigation of the Iowa and Cedar rivers, was read a second time and considered in committee of the whole, Mr. Frierson in the chair. After some time spent therein, the committee rose, and reported the memorial to the House with an amendment, in which the House concurred. Said memorial was then ordered to be engrossed for a third reading.

Bill No. 6, Council file, was read a second time and considered in committee of the whole, Mr. Grimes in the chair. The committee rose, reported that they had made progress in the consideration of the bill, and asked and obtained leave to sit again.

Bill No. 23, Council file, was taken up and read a first time.

Bill No. 21, Council file, was taken up, read a third time, passed, and the title thereof agreed to.

A communication from James G. Edwards, was read and referred to the committee on expenditures.

Bills No. 25, 28, 29 and 38, H. R. file, were taken up and the several amendments made to them by the Council were concurred in.

The amendments by Council made to bill No. 37, H. R. file, were disagreed to.

On motion of Mr. Grimes,

Leave was granted to Mr. Bailey to bring in a bill fixing a time for the annual meeting of the Legislative Assembly. Messrs. Bailey, Summers and Swan, were appointed a committee to prepare and report the same.

Mr. Grimes, from the committee on the judiciary, reported bill No. 66, entitled "An act to establish the several seminaries herein named;" was considered in committee of the whole, Mr. Hastings in the chair. After some time, the committee rose, and reported the bill to the House with amendments, in which the House concurred.

Mr. Grimes moved to amend said bill, by striking out the names in the fifth section, and inserting the following:

"William H. Starr, Geo. Temple, Nehemiah Chase, Milton D. Browning, John Porter Bradstreet, Leander J. Lockwood, Geo. H. Beeler, Wm. B. Remey, Isaac Leffler, J. B. Webber, Jeremiah Lamson, Robert Ralston and Arthur Inghram."

The bill was then referred to the committee on schools.

On motion, the House adjourned until 2 o'clock, P. M.

2 O'CLOCK, P. M.

The Speaker announced the following communication from the Secretary of the Territory.

SECRETARY'S OFFICE, }
DEC. 14, 1838 }

The Honorable the Speaker of the House of Representatives, will please announce from the chair, that the Secretary is constrained to ask the indulgence of the House until to-morrow, in replying to the fiscal resolution of yesterday.

With high regard,

Your ob't. servant,

WM. B. CONWAY,

Secretary of the Territory.

Mr. Swan, from the committee on enrollments reported as correctly enrolled, bills, H. R. file, numbered 2, 17, 23, 26, 34 and 43; likewise a memorial to the Congress of the United States.

The Speaker then signed the same, and directed the clerk to present them to the President of the Council for his signature.

Message from the Council, by their Secretary:

Mr. Speaker,—

I am instructed to inform the House, that the Council have receded from their amendment to the 19th section of bill No. 22, of the House of Representatives, entitled An act relating to informations in

the nature of quo warranto, &c.; and have concurred in the amendment made by the House to the 27th section of said bills as added by Council.

The Council have also concurred in memorial of the House to the Post Master General.

The Council have concurred in the amendment made by the House to bill No. 12, Council file, entitled An act to locate a road from Fort Madison, in Lee county, &c. And then he withdrew.

The House resolved itself into a committee of the whole, on bill No. 6, Council file, entitled A bill to organize, govern and discipline the militia of this Territory, Mr. Grimes in the chair. After some time the committee rose and reported said bill to the House with amendments. The House concurred in the report of the committee.

Mr. Grimes moved to amend the 7th line of the 26th section of the bill as follows: After the word "denomination" insert the following: "who prove to the commandant of the company in whose beat or precinct they reside, that they have been regularly ordained or licensed, and are now in full communion with their respective churches." The amendment was adopted.

On motion of Mr. Roberts,

The word "Keokuk" was so added to the first section of the bill, as to make the county of that name, belong to the second division.

The bill was then ordered to be engrossed for a third reading.

On motion of Mr. Cox,

The House adjourned.

Saturday, December 15, 1838.

On motion of Mr. Brierly,

Resolved, That a select committee of three be appointed to enquire into the expediency of enacting a law regulating the taxes on the half breed lands, and so provide by law, that those who are residing on the same, and hold interest therein, shall have the right and privilege of paying the taxes on the land they occupy and cultivate. Messrs. Brierly, Taylor and Temple were appointed the committee.

Mr. Beeler offered the following:

Resolved, That the committee on the Judiciary, be instructed to enquire into the expediency and justice of enforcing the payment into the treasury of the county of Des Moines, the proportionable part of the debt due from the several counties of Lee, Van Buren, Henry, Louisa, Muscatine, and Slaughter, to the said county of Des Moines, agreeably to an act passed by the Legislative Assembly of Wisconsin, entitled "an act dividing the county of Des Moines into several new counties," approved January 18, 1838.

Mr. Cox moved to amend the resolution by striking out the word "judiciary," and inserting instead of the same, the word "claims:" the resolution as amended was adopted.

Mr. Summers, from the committee on Roads and Highways, to which was referred a resolution instructing that committee to enquire into the expediency of establishing a territorial road, from the town of Wyoming in Muscatine county, to Napoleon in Johnson county, made an unfavorable report thereon, and asked to be discharged from the further consideration of the same.

The report was concurred in and the committee discharged.

Mr. Swan, from the committee on enrolments, reported the following to have been presented to the Governor, on yesterday, for his approval, viz.

An act to authorize Joseph Williams and Charles Alexander Warfield, to keep a ferry, &c.

An act to repeal an act of the Legislative Assembly of Wisconsin, approved Jan. 19, 1838.

An act to divide the county of Henry, and establish the county of Jefferson.

An act to make good and valid in law, the acts of Robert G. Roberts, a Justice of the Peace, formerly of Du Buque county.

An act organizing a board of county commissioners, in the different counties of this territory.

An act to locate and establish a territorial road from Keokuk to Iowa city.

Also a memorial to Congress on the right of pre-emption to mineral lands, and a memorial to that body, praying that the organic law of the territory be amended.

Mr. Taylor from the select committee appointed for that purpose reported bill No. 67, H. R. file, entitled a bill to establish the boundaries of Lee county, which was read a first time.

Mr. Toole from the committee on enrolments, reported the following bills, H. R. file, as correctly engrossed, to wit:

No. 55, a bill prohibiting the wearing of concealed weapons.

No. 56, an act for the relief of securities, &c.

No. 65, a bill to prevent disasters on steam boats, &c.; likewise a memorial to Congress, asking for an appropriation to improve the navigation of the Iowa and Cedar rivers; and a memorial to Congress, asking for an additional appropriation, to defray the expenses of the present Legislative Assembly.

Mr. Beeler from the select committee appointed for that purpose, reported bill No. 68, entitled an act declaring what laws shall be in force; which was read a first time.

Bill No. 23, Council file, entitled an act to authorise the Legislative Assembly to punish for contempt and to privilege members from arrest, was read a second time, and considered in committee of the whole, Mr. Parker in the chair. After a short time the committee rose and reported the same to the House without amendment; the House concurred in the report of the committee.

And the bill was ordered to be engrossed for a third reading.

Bill No. 51. H. R. file, entitled an act regulating weights and measures, was read a second time and considered in committee of the whole, Mr. Parker in the chair. The committee rose after some

time, reported the bill to the House without amendment, and asked its concurrence. The House concurred.

Mr. Taylor moved that the second section of the bill be stricken out, which was not agreed to.

Said bill was then ordered to be engrossed for a third reading.

Bill No. 61, H. R. file, entitled a bill to restrain unincorporated banking associations, was then read a second time and considered in committee of the whole, Mr. Roberts in the chair. After some time the committee rose, reported the bill to the House with amendments, and asked and obtained its concurrence.

The bill was then ordered to be engrossed for a third reading.

Mr. Swan from the committee on enrolments reported H. R. file, bills No. 29, 32 and 40, as correctly enrolled: The Speaker then signed the same and ordered, that they be sent to the Council for the signature of the President.

The Speaker announced a communication from the Secretary of the Territory, of this date, which was read, ordered to be printed, and referred to the committee on expenditures, and is as follows:

SECRETARY'S OFFICE,
TERRITORY OF IOWA, DEC. 15, 1838. }

To the Honorable WM. H. WALLACE, Speaker of the House of Representatives.

SIR,—The preamble and resolution adopted by the Honorable the House of Representatives, on the 13th, the receipt of which was acknowledged on the same day, has been very attentively considered by the Secretary of the Territory.

The preamble, just noticed, contains and expresses the "OPINION" of the House of Representatives, which recognizes the Secretary of the Territory as "the only disbursing officer known to the Organic Law." For the opinion of the Honorable the House of Representatives, the Secretary entertains, and has always entertained, the utmost respect; nor would he dissent therefrom on light and trivial grounds.

On the 5th of this month, a joint resolution was adopted by the Legislative Assembly, similar in its requirements, though not so positive and explanatory in its terms, as the one now before the Secretary for his consideration and FINAL decision. This resolution (of the 5th) required the payment of money, and, therefore, clearly implied the opinion that the Secretary was authorized to meet the demand.

From the reasons assigned in the communication from this Department, of the 6th instant, the opinion of Governor Lucas, as regards the right claimed by the Legislature, over the subject matter of their resolution (of the 5th) was reduced to a tangible form; and after a train of comprehensive reasoning, His Excellency was "clearly of the opinion," that the resolution (of the 5th) "being destitute of legal authority, or Executive sanction, could not with SAFETY be received by the Secretary as a voucher for the payment of money." It was then, and is still believed, that the opinion of the Executive is entitled to much consideration; and, therefore, the Secretary felt bound to *recommit* the subject, for further le-

gislative deliberation and action, if further might be deemed necessary and proper: and the Secretary is now obliged to regard the resolution of the 13th, as the *official answer* of the Honorable, the House of Representatives to the question which was submitted, by the very act of laying his correspondence with the Executive before that House. This (the resolution of the 13th) is therefore, the *answer* made known by legislative *action*, and it could be fairly considered as the opinion of one Department of the Territorial Government, against the opinion of another Department, on a question which is subject to the final decision of neither. Still, it is a question in which the Legislature and the Secretary have a *direct* interest; the former in expending the public money and the latter in *accounting* for its expenditure.

The Secretary was well aware of the views and opinions of the Executive, and particularly in relation to the disbursement of the public funds; and being thus acquainted with his views and opinions, and for this reason *alone*, which has been repeated again and again, the Secretary raised the question, in a distinct and official form, before the Legislative Assembly, on the 15th of November; and the Executive assurance, made known through the medium of that communication has never been doubted or contradicted, and it has been substantially repeated, in the correspondence which was read in the House of Representatives on the 7th.

Let it be well remembered, that the *principle* at issue, between the Executive and the Legislature, has never been decided, directly or indirectly, by the Secretary. He merely ceased to act, or declined official action, on a principle which was the subject of contested opinions, between the Legislature and the Executive; and the question stands in this position, up to the present moment, with one exception, and the materiality of that exception is yet a matter of inference; to which the Secretary will recur in the conclusion of this paper.

The Honorable the House of Representatives, will indulgently allow the whole subject to be reduced to a methodical arrangement, corresponding with the facts.

First. On the 15th of November, the Secretary of the Territory brought the subject of expenditures and disbursements, in a plain and official manner, before both branches of the Legislature of Iowa; and it was then submitted and earnestly pressed, whether the enactment of a law would not be necessary and proper, to regulate his discretion in making disbursements.

Secondly. Pursuant to the submission and recommendation of the Secretary, a Bill was reported in the House of Representatives, providing for the organization of the Legislative Assembly, known by the name of "Mr. Frierson's Bill."

Thirdly. The subject does not appear again, in an official form, until the 5th of December, and then it makes its appearance in the shape of a joint resolution.

Fourthly. The Secretary then, in a polite, respectful, and official manner, drew forth, in form and proportion, the Executive opinion, of and concerning the validity of the resolution of the fifth of December.

Fifthly. And lastly, this Executive opinion was very properly submitted, by the Secretary, to the Legislature, on the 7th of this month; and it will be conceded, that he (the Secretary) can take no official cognizance of any intermediate proceeding, until he received your resolution of the 13th, which he must regard as the action on, and the answer to the question which was recommitted to the House of Representatives, on Friday the 7th of December.

The foregoing is believed to be a correct, and fairly connected view of the whole case, and it will be seen, that the official action of both branches of the Legislature, by their separate resolutions of the 13th, DENIES, in the plainest manner, the correctness of the Governor's opinion, which had been considered since the seventh. The present state of the case may, therefore, be reduced to this single proposition, to wit: The "opinion" of the executive against the "opinion" of the legislature, with regard to a principle involving the official action and pecuniary responsibilities of the Secretary. This is the whole case, opinion against opinion, one of which only can be correct.

The organic law vests the legislative power of this Territory, "in the Governor and Legislative Assembly." This is broad, unqualified, and general; yet still it is the language of the law. But, if this clause will not admit of any qualification, it appears to prove too much; and unless a principle can be carried out into all its resulting consequences, it is to be recognized with commendable caution. If the clause just quoted, is to be received without any qualification, it proves that there is no act, motion, rule, or arrangement, however minute, with which the Executive may not rightfully interfere; and it proves, that he is, indeed, and in fact, an integral part and portion of the Legislature, considered in its distinguishing and essential character, as a deliberative assembly. The principle, therefore, proves too much, and is not to be hastily admitted.

Usage, as ancient as the origin of parliamentary organization, guarantees to every deliberative assembly the right of regulating its own proceedings, and to form, alter, improve and complete those arrangements, which may, by the assembly, be deemed necessary, proper and convenient, for the transaction of the business, for the prosecution of which the said assembly was called into existence. And, as clerks and other officers are nothing more (in that capacity) than a part or parts of the arrangements of a Legislative Assembly, the conclusion is supported by the usage, the precedents, and experience of ages, that the Legislature possess the inherent right of appointing their own clerks, and other incidental assistants, as courts have to appoint their own tip staves and criers. This is the ancient and the modern law of usage, and unless it be contravened, modified, or annulled, by positive enactment, usage always creates a strong presumption in favor of the right claimed under its authority. In exercising this right, legislators may run into extravagance, and do some mischief by their prodigality. This is, however, no argument against the proper, inherent, and essential rights of legislative bodies, and especially in this country, where the corrective is in the hands of an intelligent people, and can be so efficiently applied at short and convenient intervals. And wise men

have doubted whether this supervisory authority, over the internal regulations of a deliberative assembly, could, with either propriety or safety, be vested any where but in the Assembly itself. This law of usage has been established on the presumption that legislation will be generally entrusted to honest men; to men who would not invade right, because they possess temporary and revocable authority. And the history of the world proves the proposition clearly, that executive usurpation has inflicted more evils on our race than the wildest projects of legislative folly. But it is the duty of the wise and the good, to avoid all manner of dangerous extremes.

As regards the organization of the Legislative Assembly of Iowa, there seems to be no provision in the organic law, which modifies, diminishes, or takes away, any of the inherent and incidental rights of a legislative body, as guaranteed and established by the law of usage; unless the first clause of the 4th section can be so construed. But this construction is repugnant to the clearest perceptions of the Secretary's understanding; and if it could be adopted by him, on the ground of expediency, he is aware that legislation, in this Territory, would, for the present, be brought to a hasty and very unsatisfactory close. He is well aware that the *concession* of the *principle*, at issue, by one side or the other, or an immediate adjournment, are the only alternatives presented by the existing state of the case.

That the House of Representatives will recede from the principle on which they have taken a stand, is a supposition flatly contradicted by their resolution of the 13th; and it is equally evident that the views of the Council have undergone no change on this subject, which is plainly manifested by their resolution of the same date. And that the opinion of Governor Lucas is not less stable and firm, than it was on the 6th is a fact which was made known to the Secretary in the following manner: On Saturday evening (the 8th inst.) the Secretary had the honor to write to Governor Lucas, informing him that his communication of the 6th to this department had been publicly spoken of as a "private letter;" and respectfully requesting him to say in reply, "whether his said communication of the 6th, had been transmitted to the Legislature with his knowledge and consent or not? And whether his Excellency wished the Secretary to recall said communication as a private paper, containing opinions which his Excellency was not willing to avow in a public and official manner?" These inquiries were presented to the Governor on last Saturday, to which he has given, up to this time, nothing more than a verbal reply, and that reply confirmed the official character of the communication of the 6th of December, as regards the meaning, intention, and destination of which, the Secretary never had any reason to entertain a doubt.

The Legislature and the Governor are, therefore, distinctly, positively, publicly, and officially, at variance, with regard to a *principle* involving, in this instance, the action and responsibilities of the Secretary. The Executive and the Legislature cannot both be correct, when they differ in relation to a principle which cannot be right and wrong at the same time. We are far from the Treasury Department, where the legal validity of vouchers is to be finally

determined, and the Legislature cannot stand still until information could be received from that distant source. A dilemma is thus presented, and the Secretary is clearly compelled to straddle one of its horns. He must take one side of this question, or let the members of the legislature go home; or they must consent to transact the public business without either clerks or firemen. The Secretary must, therefore, march up to this difficulty, and take his stand, with the unquestionable right of selecting his position. And, therefore, from a calm, impartial and considerate examination of the whole case, the Secretary concurs in the rectitude of the *principle* for which the Legislature have contended, and he is constrained, by the force of honest conviction to dissent from the opinion of the Executive. The Secretary has reached this conclusion with the most respectful and becoming reluctance;—but nevertheless he has reached this conclusion. The Legislature and the Secretary have, therefore, taken the same view of the question, as regards the relative rights of the conflicting departments. But it may be entirely possible, that the Legislature and the Secretary are both in error, in their estimate of the extent to which legislative authority is vested in the Executive, by the general clause in the 4th section of the organic law; and if the Secretary of the Treasury of the United States should happen to concur with the Governor of Iowa, in reference to the essential requisites of a "legal voucher," the responsibilities now to be incurred by the Secretary of the Territory, may become oppressively burthensome. This cannot be *intended* by the Legislature, as the result of a contest for *principle*.

There is, however, an inference to be drawn from the resolution adopted by the House of Representatives, on the 13th inst., which inference seems to result clearly from the concluding clause.—Speaking of the *certificate* of service and attendance, the resolution distinctly declares, that it "SHALL BE A SUFFICIENT VOUCHER to him (the Secretary) as disbursing agent of the Territory." And the resolution adopted by the Council on the same day, (the 13th inst.) is "*considered*," by that body, as a "SUFFICIENT and LEGAL voucher under the organic law."

The Secretary of the Territory, therefore, draws this conclusion, from the premises thus laid down, that the faith of both branches of the Legislature of Iowa is thus publicly, formally, officially and solemnly PLEDGED, for the LEGAL SUFFICIENCY of the vouchers, upon the presentation of which the Secretary is authorized and required to disburse the funds of the United States, now in his hands. And if the Legislature will warrant this conclusion as correct, either by specific action, or by their silence, then the certificates may be sent to this office, and they shall be paid on presentation, so long as the funds in the hands of the Secretary will meet the demands of the public creditors.

Very respectfully, your obedient servant,

WM. B. CONWAY,

Secretary of the Territory of Iowa.

Bill No. 62, H. R. file, entitled an act to authorize clerks of courts to appoint deputies in certain cases, was taken up, read a second time, and

Ordered, that the House resolve itself into a committee of the whole for the consideration thereof, Mr. Summers in the chair. After a short time spent therein, the committee rose and reported the bill with amendments. The House concurred in the report of the committee.

And the bill was ordered to be engrossed for a third reading.

On motion of Mr. Bankson,

The House reconsidered the vote referring the communication of the Secretary of the Territory of to day, to the committee on Expenditures; when,

On motion of Mr. Swan,

Resolved, That the communication of the Secretary of the Territory of 6th inst. to this House, together with the accompanying communication of said Secretary to the Governor, and his excellency's answer thereto; the reports of the majority and minority of the committee to which they were referred, a resolution of this House passed 13th Dec. inst., instructing said secretary to disburse, with his reply to the same received this day, be printed.

Mr. Burchard then moved that 500 copies of the documents named in the foregoing resolution, last above recited, be printed for the use of the members of this House. which was disagreed to.

The yeas and nays being called for, on said disagreement, were as follow:

Yeas—Messrs. Bankson, Burchard, Cox, Porter, Summers, Swan, Taylor, Tempie, Toole and Wallace, Speaker—10.

Nays—Messrs. Bailey, Beeler, Blair, Brierly, Coop, Delashmutt, Frierson, Grimes, Hastings, Parker and Thornton—11.

On motion of Mr. Taylor,

Resolved, That James G. Edwards be employed to print 500 copies of the communications of the Secretary of the Territory to this House of the 6th and 15th inst. with that of the Secretary to the Governor, and his answer thereto, accompanying the former, together with the resolution of this House passed on the 13th December, also the reports of the majority and minority of the committee to which said correspondence was referred.

Bill No. 64. H. R. file, was read a second time and considered in committee of the whole Mr. Swan in the chair. After a short time the committee rose, and reported the bill without amendment. The House concurred in the report of the committee.

On motion of Mr. Taylor,

The bill was recommitted to the select committee that reported it.

On motion, the House adjourned until Monday.

Monday, December 17, 1838.

Mr. Frierson presented the petition of sundry citizens of Muscatine county, praying that a portion of said county be attached to and

made a part of the county of Scott. Said petition was referred to the committee on townships and county boundaries.

Mr. Beeler offered the following:

Resolved, That the committee on territorial affairs be instructed to inquire into the propriety of devising ways and means of rendering our extensive prairies fit for cultivation, and whether it would not be advisable to memorialize Congress to grant to each settler in the prairie a fee simple title to three hundred and twenty acres of land, when the same is situated two miles or more from timber, which was on motion of Mr. Bailey, laid on the table.

Mr. Summers, from the select committee appointed for that purpose, reported a memorial to Congress asking that body to grant permission to settlers on the 16th section of the public lands to enter that portion of the same which they occupy, and that school lands be located elsewhere; which memorial was read a first time, and is as follows:

To the Honorable the Senate and House of Representatives of the United States, in Congress assembled.

Your memorialists, the Council and House of Representatives of the Territory of Iowa, respectfully represent:

That many of our best citizens settled upon the public lands in this Territory, and commenced improving and cultivating prior to the public surveys thereof; that, in a number of instances after said surveys were made, settlers were grieved to find themselves occupying and improving the *sixteenth* or *school* section; that in most of those instances, the settler, having expended *all* his means in improving the land, could not resolve to desert it and lose all his industry and hard labor, but determined to remain upon the place he had selected for his home. We, therefore, appeal to your honorable bodies for relief.

Your memorialist, representing those settlers, sincerely believing their situation distressing, and deserving your consideration, respectfully memorialize your honorable bodies to provide a way for their relief by permitting each to enter at the proper land office so much of the school section as he improved and cultivated prior to the said public surveys, and that provision be made for selecting elsewhere in the township the same quantity of land for school purposes.

Mr. Grimes, from the select committee appointed to draft a memorial to Congress on the subject of the construction of a rail road from Burlington, by way of Mount Pleasant, through Van Buren county, to the Missouri state line, reported the same. Said memorial was read a first and second time. The House then resolved itself into a committee of the whole for the consideration of the same, Mr. Taylor in the chair. After some time the committee rose and reported the memorial to the House without amendment in which the House concurred.

Mr. Taylor then moved to amend the same as follows: After the word "construction" in the last clause, add the following: "Provided, That such grant may not take from any settler or claimant his, her or their improvement." The amendment was agreed to.

Mr. Beeler then offered the following amendment to said memorial, the first to be inserted next after the word "improvement" in the last clause, and the second at the end of the memorial; viz:

"And provided further, that when the same shall conflict with any settler then and in that case an equivalent shall be granted for said road."

"And that his Excellency the Governor be and he is hereby requested to forward a copy of the foregoing memorial to the President of the United States and our delegate in Congress, requesting his best exertion to procure the passage of the same," which were adopted. Said memorial was then ordered to be engrossed for a third reading.

Mr. Beeler from the select committee appointed to prepare bill No. 69, entitled "An act regulating the publication and distribution of the laws and journals of the Legislative Assembly of the Territory of Iowa, and the re-printing of sundry local acts of the Territory of Wisconsin, and for other purposes," reported the same. Said bill was read a first time.

Mr. Frierson from the select committee appointed to prepare bill No. 70, entitled "A bill to incorporate the Bloomington and Cedar river canal company," reported the same.

Said bill was then read a first time.

Mr. Hastings from the select committee appointed to prepare bill No. 71, entitled "A bill for the support of illegitimate children," reported the same; which bill was then read a first time.

Mr. Nowlin from the committee appointed under a resolution of the Legislative Assembly of the 29th November ult., to investigate the affairs and condition of the Miners' Bank of Du Buque, made report thereon; which was read and ordered to be printed.

[SEE APPENDIX DOCUMENT No. 5.]

Bill No. 59, H. R. file entitled "A bill to provide for the partition of real property," was taken up, read a second time, and ordered to be considered in committee of the whole, Mr. Temple in the chair. After some time spent therein, the committee rose, reported progress, and asked leave to sit again. Leave was granted.

Bill No. 63, H. R. file, entitled "An act to authorize Wm. Meek and sons to erect a dam across the Des Moines river" was taken up and read a second time; and on motion the House resolved itself into a committee of the whole for the consideration of the same, Mr. Toole in the chair. After some time the committee rose and reported the bill with amendments. The House concurred in the report.

Mr. Beeler offered the following, to be added to the bill:

"SEC. 6. If any person or persons, shall be injured in the navigation of said stream, by means of the erecting of said dam, or the insufficiency or bad repair of such lock, the said Wm. Meek and sons" their heirs and assigns, shall be liable to pay all damages incurred thereby." Not agreed to.

The bill was then ordered to be engrossed for a third reading.

The Secretary of the Council being introduced, delivered the following message:

Mr. Speaker,—

The Council have concurred in the amendments made by the House to bill No. 4, Council file, entitled "An act relative to promissory notes, &c."

The Council has passed bill No. 22, Council file, entitled "An act to locate and establish a territorial road, &c."

I am instructed to inform the House of Representatives that the Council insist upon their amendments to the 5th and 7th sections of bill No. 16, H. R. file, and have appointed Messrs. Hempstead, Clark and Swazey, a committee of conference in relation thereto.

The Council have also passed bills of the House of the following titles, to wit:

No. 5. An act to provide for the safe keeping and management of the territorial library; with amendments.

No. 27. An act concerning divorces.

No. 51. An act concerning debtors and their securities, with amendments, in which the concurrence of the House is requested.

I am also directed to inform the House that the Council has receded from their amendment to the 6th section to bill No. 6, H. R. file, and has concurred in the amendment made by the House to the 15th section of said bill, added by Council.

Mr. Beeler, from the committee on enrollments, reported as correctly enrolled, bills of the following titles:

An act relating to information in the nature of quo warranto, &c.

An act to regulate ferries, and

An act to provide for the collection of demands against boats and vessels; also,

A memorial to the Post Master General.

On motion, the House adjourned until 2 o'clock, P. M.

2 O'CLOCK, P. M.

On motion of Mr. Summers,

The memorial on the subject of school lands, read this morning, was ordered to be printed.

On motion of Mr. Price,

Leave of absence was granted to his colleague, Mr. Patterson, during the time he shall be necessarily detained by reason of indisposition in his family.

On motion of Mr. Grimes,

Resolved, That the committee on schools, be instructed to inquire into the expediency and propriety of levying a tax on lands owned by non residents of this Territory, to be appropriated in the establishment of a common school fund.

Mr. Coop offered the following:

Resolved, That this House adjourn, on Friday the 21st inst., at 12 o'clock, M., until the 27th inst., at 10 o'clock, A. M.

Mr. Bankson moved to lay the resolution on the table, until the 15th day of August next.

The question being put, and the yeas and nays being called for by Mr Taylor, were asked to:

Yeas—Messrs. Bankson, Bailey, Beeler, Burchard, Cox, Frierson, Grimes, Hastings, Parker, Summers, Swan, Taylor and Temple—13.

Nays—Messrs. Brierly, Coop, Delashmutt, Nowlin, Porter, Price, Roberts, Toole and Wallace, Speaker—9.

So the resolution was laid on the table.

Mr. Temple offered the following:

Resolved, That the Secretary of the Territory be directed to pay Messrs. Clarke & McKenny, one thousand dollars, to be accounted for in the final settlement of their accounts with the House of Representatives, for printing.

On motion of Mr. Nowlin,

The resolution was laid on the table.

Mr. Beeler, from the committee on enrollments, reported as correctly engrossed, A bill to restrain unincorporated banking associations.

Bill No. 55, H. R. file, entitled "A bill to prevent the wearing of concealed weapons," was taken up and read a third time.

On motion of Mr. Grimes,

The House unanimously amended the bill by adding the words "Bowie knife" to their number of weapons prohibited.

The bill was then passed, and the title agreed to.

Ordered, That it be sent to the Council for concurrence.

Bills H. R. file, No. 56, entitled "A bill for the relief of securities of persons charged with criminal offences;" and

No. 65, entitled "A bill to prevent disasters on steam boats navigating the waters within the jurisdiction of this Territory;" were taken up, read a third time, passed, their titles agreed to, and ordered to be sent to the Council for concurrence.

Memorial to Congress, asking for an additional appropriation to defray the expenses of the Legislative Assembly, was read a third time and passed.

Ordered, That it be sent to the Council for concurrence.

Memorial to Congress praying for an appropriation to improve the navigation of the Iowa and Cedar rivers, was read a third time, and,

On motion of Mr. Nowlin,

Recommitted to the committee which reported it.

Bill No. 23, Council file, entitled A bill to authorize the Legislative Assembly to punish for contempt and to privilege members from arrest was read a third time, passed, and the title thereof agreed to.

Bill No. 6, Council file, was read a third time, and on motion of Mr. Grimes, referred to the committee on the militia.

Bill No. 5, H. R. file, entitled A bill to provide for the safe keeping and management of the Territorial Library, was taken under consideration, and the amendments made by the Council, to the 1st and 2d sections thereof concurred in. The amendment made to the 3d section of the same was disagreed to.

On motion of Mr. Swan,

Ordered that a committee of conference be appointed to confer with a similar committee from the Council, on the disagreement of the House, to amendments made by Council to bill No. 15, H. R. file. Messrs. Swan, Grimes and Bankson, were appointed said committee.

Bill No. 27, H. R. file, as amended by the Council, was taken up and the amendments made the 1st, 2d and 6th sections agreed to, and the amendment made to the 9th section disagreed to.

Bill No. 51, H. R. file, was taken up and the amendments made to same by the Council were concurred in.

Bill No. 22, Council file, entitled A bill to locate and establish a territorial road from Black Hawk in Louisa county, by way of Mount Pleasant, to the southern boundary of Van Buren county &c., was taken up and read a first time.

Mr. Swan from the committee on enrollments reported, as correctly enrolled, the following entitled acts, viz:

An act regulating the mode of taking deposition and to provide for the perpetuation of testimony.

An act to provide for the incorporation of agricultural societies.

The said acts were then signed by the speaker, and the clerk ordered to present them to the President of the Council for his signature.

Mr. Hastings presented a petition praying that privilege be granted to Benjamin Nye, to erect a dam across Pine river.

Said petition was referred to a select committee, consisting of Messrs. Hastings, Toole and Thornton.

Mr. Patterson from the committee on expenditures to which was referred the account of James G. Edwards, of forty five dollars and fifty cents, for furnishing twenty-six copies of Wisconsin laws, reported that it is expedient to allow said account.

The report was concurred in.

Mr. Grimes from the committee on the judiciary, reported bill No. 72, H. R. file, entitled an act concerning grand and petit jurors; the House resolved itself into a committee of the whole on the same, Mr. Bankson in the chair. After some time the committee rose, and reported the bill with amendments; the House concurred in the report of the committee, and ordered the bill to be engrossed for a third reading.

On motion of Mr. Summers,

Ordered, That a committee of conference be appointed on the disagreeing vote of the two Houses, in relation to bill No. 27, H. R. file, entitled an act concerning divorces. Messrs. Summers, Taylor and Cox, were appointed said committee.

Mr. Frierson asked and obtained leave to introduce a bill, providing for the appointment and defining the duties of district prosecutors, in this Territory. Messrs. Frierson, Grimes and Cox, were appointed a committee to prepare said bill.

Mr. Hastings asked and obtained leave to introduce a bill relating to frauds and perjuries. Messrs. Hastings, Blair and Brierly, were appointed a committee to prepare and report the same.

Mr. Grimes from the committee on the Judiciary, reported bill No. 73, H. R. file, entitled a bill to provide for the punishment of the crime of bribery. The House resolved itself into a committee of the whole for the consideration of said bill, Mr. Bailey in the chair. After some time spent therein, the committee rose, reported said bill with amendments, and asked the concurrence of the House; the House concurred.

And ordered the bill to be engrossed for a third reading.

Bill No. 62, H. R. file, entitled An act to authorize clerks of district courts, and boards of county commissioners, to appoint deputies in certain cases, was taken up, read a third time, passed, and title agreed to.

Ordered, That it be sent to the Council for concurrence.

On motion of Mr. Blair,
The House adjourned.

Tuesday, December 18, 1838.

Mr. Summers offered the following:

Resolved, That a select committee of one from each electoral district be appointed to apportion the members of the House of Representative, for the next General Assembly, in the several counties of this Territory; which was,

On motion of Mr. Bankson, laid on the table.

On motion of Mr. Bankson,

Resolved, That the committee on Corporations, be instructed to inquire into the expediency of granting a charter to Robert Carey, to keep a ferry across the Mississippi river, at Charleston, Jackson county.

Mr. Beeler, from the committee on enrolments, reported as correctly engrossed, bills of the following titles, viz:

An act subjecting real and personal property to execution.

An act regulating weights and measures; and

An act to authorize William Meek and Sons, to erect a dam across the Des Moines river.

Also a memorial to Congress upon the subject of a rail road from the town of Burlington, to the boundary line of the State of Missouri.

Mr. Swan, from the committee on Enrolments, reported the following entitled acts to have been presented yesterday, to the Governor, for his approval, viz:

An act relative to Mechanics' liens, and for other purposes.

An act to authorize John H. Sullivan and Adrian H. Davenport, to keep a ferry; and

An act to authorize J. S. Kirkpatrick, to keep a ferry at the town of Bellview.

Mr. Summers, from the committee on Roads and Highways, made the following report:

The committee on Roads and Highways, to which was referred a resolution instructing them to enquire into the expediency of locating a territorial road from the landing opposite Oquawka, to Mount Pleasant in Henry county, have had the same under consideration, and are of opinion that it is not expedient at this time to establish said road; the committee therefore ask to be discharged. The report was concurred in.

Mr. Hall, from the committee on the Militia, to which was referred bill No. 6, Council file, entitled a bill regulating the organization and discipline of the militia of this Territory, reported the same back to the House without amendment.

Mr. Swan, from the committee appointed yesterday, to confer with a like committee of the Council, on the subject of the disagreement of the House, to an amendment made by the Council to the 7th section of bill No. 16, H. R. file, reported that the committee could not agree, and asked the House to adhere to their disagreement. The House adhered.

Mr. Burchard from select committee appointed to prepare bill No. 74, entitled a bill to provide for the organization of the county of Clinton, reported the same; which was,

On motion of Mr. Cox, laid on the table.

Mr. Price from the committee appointed to prepare bill No. 75, entitled an act concerning water crafts, &c. reported the same. Said bill was then read a first time.

Mr. Swan, from the committee on Corporations, reported bill No. 76, entitled a bill to incorporate the town of Bloomington; which was read a first time.

Mr. Hastings, from the committee to whom was referred the petition of Benjamin Nye, praying the Legislative Assembly to grant him a privilege to erect a dam across Pine river, reported bill No. 77, entitled a bill to authorize Benjamin Nye, to build a dam across Pine river. Said bill was then read a first time.

Mr. Beeler asked leave to introduce a bill concerning the revisal of statutes. Leave was granted, and Messrs. Beeler, Hastings and Nowlin were appointed a committee to prepare and report the same.

The following message from the Council was received by Mr. Wallace, their Secretary:

Mr. Speaker,

The Council have passed memorial of the House to the Congress of the United States, on the subject of a penitentiary, with amendments; also a memorial of the House on the subject of an appropriation for the improvement of the several streams therein named, with amendments. The Council have passed a memorial to the Congress of the United States, asking relief for Jeremiah Smith; in all of which I am instructed to ask the concurrence of the House.

I am instructed to inform the House, that the Council have refused to concur in the resolution of the House, in relation to an interchange of statutes, with the different states and territories.

I am also directed to inform the House, that the Council have receded from their amendment to bill No. 37, H. R. file.

And then he withdrew.

The Speaker announced the following communication, which was read, to wit.

DEC. 18, 1838.

To the Honorable the Speaker of the House of Representatives of the Territory of Iowa:

SIR—We have the honor to submit to the Legislative Assembly, the following acts, to wit: "An act relative to wills and testaments,

executors and administrators, and the settlement of estates;" and
"An act to establish Courts of Probate."

Very respectfully yours,

CHARLES MASON,
T. S. WILSON,
J. WILLIAMS.

The said entitled acts were read a first time, and ordered to be printed.

Bill No. 22, Council file, entitled "A bill to locate a territorial road from Black Hawk to the southern boundary of Van Buren county," was read a second time, and considered in committee of the whole, Mr. Beeler in the chair. After some time the committee rose, and reported the bill to the House with amendments. The House concurred in the report.

On motion of Mr. Nowlin,

The third section of said bill was stricken out.

The House then ordered the same to be engrossed for a third reading.

Bill No. 68, H. R. file, entitled "a bill declaring what acts shall be in force," was taken up, read a second time, and ordered to be considered in committee of the whole, Mr. Blair in the chair. The committee, after a short time, rose and reported the bill without amendment. The House concurred in the report.

The question then being put, "shall the bill be engrossed and read a third time?" it was determined in the negative.

Bill No. 61, H. R. file, entitled "a bill to restrain unincorporated banking associations," was read a third time, passed, and the title of the same agreed to.

Ordered, That it be sent to the Council for concurrence.

Bill No. 41, H. R. file, entitled "a bill subjecting real and personal estate to execution was read a third time.

Mr. Hall then moved that the bill be recommitted, which was not agreed to.

The question being put, "shall the bill pass?" and

The yeas and nays thereon called for, were as follow; to wit:

Yeas—Messrs. Bankson, Bailey, Beeler, Brierly, Coop, Cox, Frierson, Grimes, Hastings, Nowlin, Parker, Porter, Swan, Taylor, Temple and Wallace, Speaker—16.

Nays—Messrs. Burchard, Delashmutt, Hall, Price, Roberts, Summers and Toole—7.

So the bill passed, the title was agreed to, and the clerk directed to present the same to the Council for concurrence.

Bill No. 54, H. R. file, entitled "a bill regulating weights and measures," was taken up, read a third time, passed, and the title agreed to.

Ordered, That it be sent to the Council for concurrence.

Bill No. 63, H. R. file, entitled "an act to authorise William Meek and Sons to erect a dam across the Des Moines river," was read a third time and passed.

On motion of Mr. Bailey,

The vote on the passage of said bill was reconsidered.

Mr. Bailey then moved to strike out the word "fifty," and insert in lieu thereof, the words "thirty" and "thirty five;" agreed to.

The bill passed, and the title of the same was agreed to.

Ordered, That it be sent to the Council for concurrence.

Memorial to Congress on the subject of a rail road from Burlington, &c. was read a third time; and

The yeas and nays on its passage, being called for, were as follow:

Yeas—Messrs. Bailey, Beeler, Blair, Coop, Delashmutt, Frier-son, Grimes, Hall, Hastings, Parker, Porter Summers, Taylor, Temple, Toole and Wallace, Speaker—16.

Nays—Messrs. Bankson, Brierly, Burchard, Cox, Nowlin Price, Roberts and Swan—8.

So the memorial passed.

Ordered that it be sent to the Council for concurrence.

Memorial to Congress for the relief of Jeremiah Smith, was read a first and second time; and, on motion, the House resolved itself into a committee of the whole on the same, Mr. Brierly in the chair. After some time, the committee rose, and reported the memorial without amendment. The House concurred, and the memorial was ordered to be engrossed for a third reading.

On motion of Mr. Swan,

The rule of the House was suspended and the memorial passed.

Bill No 52, H. R. file, as amended by Council, was read and concurred in.

The several amendments made by Council to memorial on the subject of a penitentiary, were concurred in except the last, which was disagreed to.

Memorial to Congress asking for an appropriation for the survey of the several streams therein named, as amended by Council, was read; and,

On motion of Mr. Grimes,

Referred to the committee on Internal Improvements.

On motion, the House adjourned until 2 o'clock, P. M.

2 O'CLOCK, P. M.

Mr. Summers asked and obtained leave to introduce on Thursday next, or some other day, a memorial to Congress, praying for an appropriation to construct a rail road from Rockingham, westward, to the Indian boundary line by way of the county seat of Cedar county. Messrs. Summers, Roberts and Swan, were appointed a committee to prepare the same.

Mr. Cox asked leave to introduce a memorial to Congress, for the purpose of constructing a rail road from Rockingham, by way of Davenport and Richfield, to Du Buque. Leave was granted, and Messrs. Cox, Coop, and Bankson, were appointed a committee to prepare and report the same.

Mr. Swan offered the following:

Resolved, That Messrs. Grimes, Hall, Nowlin, Hastings and Roberts, be appointed a committee to take into consideration the expediency of memorializing Congress, on the subject of a rail road,

from Mount Pleasant, in Henry county, through the counties of Slaughter and Johnson, crossing a part of Linn and Jones counties, and terminating at the Mississippi river, as near as may be opposite the termination of the Wisconsin rail road, which is now under the supervision of officers of Government appointed for that purpose.

The resolution was rejected.

Mr. Frierson, from the committee on Internal Improvement, to which was referred on this morning, a memorial to Congress, asking for the survey of certain rivers therein named, as amended by the Council, reported the same back to the House without amendment.

Mr. Bailey presented the petition of sundry citizens of Van Buren county, praying that a charter to establish and keep a ferry across the Des Moines river at South Bentonsport, be granted to Giles O. Sullivan and John B. Smith

Referred to the committee on Roads and Highways.

Bill No. 6, Council file, entitled "a bill providing for the organization and discipline of the militia, was read a third time and passed.

On motion of Mr. Cox,

The resolution relative to the payment of money for printing, laid on the table yesterday, to Messrs Clarke and McKenny, was taken up.

Mr. Bailey moved to amend the same, by striking out the words "one thousand," and inserting in lieu thereof, the words "five hundred;" which was agreed to.

The resolution, as amended, was then adopted.

Memorial to Congress for the survey of several rivers of the Territory, was taken up and, on motion, the words "Wabesipinicon, Turkey and Maquokita, were stricken from the same. The question was then taken on the passage of the memorial, and decided in the negative.

Memorial on the subject of school land, was read a second time, and, on motion of Mr. Summers, the House resolved itself into a committee of the whole, for the consideration thereof, Mr. Burchard in the chair. The committee rose, after some time occupied therein, and reported the memorial to the House with amendments, in which the House concurred.

Mr. Bailey moved to strike out all after the word "memorial," as first used in said memorial, and the question being put on the agreement of the House to the motion;

And the yeas and nays being called for, were as follow:

Yeas—Messrs. Bankson, Bailey, Beeler, Blair, Brierly, Burchard, Coop, Cox, Frierson, Hastings, Parker, Porter, Price, Roberts, Swan, Temple and Wallace, Speaker—17.

Nays—Messrs. Delashmutt, Grimes, Hall, Nowlin, Summers, Taylor and Toole—7.

Mr. Hastings offered the following:

Whereas the Supreme Judges of this Territory, by a joint resolution of the Council and House of Representatives, have been appointed to prepare and present to this Legislature during its present session, such laws as will form a code of jurisprudence and practice. Therefore,

Resolved, That the sum of — dollars per day, shall be allowed and paid to each of the said Judges, together with the same mileage which is allowed to members of the Legislature of this Territory, for their services rendered in compliance with said resolution; said daily pay to be estimated from the time of the adoption of that resolution, to the end of the present session. And the said Judges are hereby authorised to receive the daily pay thus allowed, from the Secretary of the Territory, upon the certificate of the Speaker of the Council, or House of Representatives, attested in the same manner as are the certificates for the daily pay of the members of this Legislature.

Said preamble and resolution were read and referred to the committee on expenditures.

Mr. Hall asked and obtained leave to bring in a bill, at a future day, compelling persons holding offices to resign before they become candidates for offices incompatible therewith.

Messrs. Hall, Bierly and Porter were appointed a committee to prepare the bill.

On motion, the House adjourned.

Wednesday, December 19, 1838.

Mr. Beeler from the committee on enrollments, reported, that on yesterday, acts of the following titles were presented to the Governor for his approval, viz:

An act locating a territorial road from Fort Madison &c.

An act regulating the intercourse between the Legislative and Executive Departments of the Territory of Iowa.

An act regulating the mode of taking depositions, [and to provide for the perpetuation of testimony; and

An act for the incorporation of agricultural societies.

Mr. Nowlin presented the petition of Robert Carey, praying that a ferry charter be granted to him to be established at Charleston, Jackson county.

Referred to the committee on corporations.

Mr. Summers, from the committee on roads and highways, to which was referred the petition of inhabitants of Van Buren county, asking that a ferry charter be granted Giles O'Sullivan and John B. Smith, reported that they did not feel authorized to act on the subject, and asked leave to be discharged.

The report was concurred in.

Mr. Bailay, from the committee on Schools, in accordance with a resolution of the House of the 16th instant, reported, that they had had the subject matter of the same under consideration, and deemed it inexpedient at present to tax non-resident lands in the Territory.

The report was, on motion of Mr. Cox, laid on the table.

Mr. Frienson, from the select committee appointed for that purpose, reported bill No. 80, entitled A bill to provide for the appointment of district prosecutors, and defining their duties. Read a first time.

Mr. Nowlin, from the committee on expenditures to which was yesterday referred a resolution authorizing the Secretary of the Territory to pay the Judges of the Supreme Court for services rendered in accordance with a resolution of the Legislative Assembly, made report, that they have had the subject under consideration and would recommend the adoption of resolution as follows:

Resolved, By the Council and House of Representatives of the Territory of Iowa, That the Judges of the Supreme Court of this Territory shall each be allowed the sum of one hundred and twenty-five dollars for their services in drafting bills, and presenting them to the Legislature for enactment.

Resolved, By the Council and House of Representatives of the Territory of Iowa, That the joint resolution passed 21st November last requesting the Judges of the Supreme Court to furnish this Legislative Assembly during its present session with such bills as will, in their opinion, form a proper code of jurisprudence for Iowa, and regulate the practice of the courts thereof, is hereby rescinded.

On motion of Mr. Bailey,

Said report and resolutions were laid on the table.

Mr. Taylor, from the committee appointed to prepare a memorial to Congress on the subject of a rail road from Fort Madison to the Des Moines river, reported the same, and is as follows:

To the Senate and House of Representatives of the United States, in Congress assembled.

The memorial of the Council and House of Representatives of the Territory of Iowa, in General Assembly met respectfully represents:

That they are desirous of calling the attention of Congress, to the expediency of making an appropriation for the construction of a rail road, from the town of Fort Madison on the Mississippi river, by the way of the town of West Point, to the Des Moines river, at some eligible point in the county of Van Buren.

The country through which it would pass, being alternate prairie and woodland, affords, from the make of the ground, an opportunity of constructing a rail road at but a very trifling expense, compared with many in different parts of the United States, or with the good that would result from it.

It is deemed unnecessary to detail at length, the great value and importance a work of this kind would be to the country through which it would pass. It would afford a channel through which the products of the industry of an enterprising, hardy and numerous population, would be sent to the great Mississippi. It would enhance the value of the lands, through which it would run, and afford a great and ready communication over a rich and fertile country. It would pass through several large prairies, at present the lands of which are of little value, but by the construction of such a work, they would not only be rendered valuable to the general government, but would afford a profitable and happy home to the bold and enterprising pioneer of the wilderness.

But apart from the great and manifold utility, to the whole country through which the road would pass, your memorialists deem it of paramount importance to provide in time of peace, for the safety

and defence of the thousands of citizens, who are now residing on a land contiguous to large and savage bodies of Indians.

By means of such a road as the one asked for, soldiers, provisions and munitions of war, could be sent from the Mississippi river, to the frontier in case of any hostilities on the part of the Indians, with that despatch that is so desirable in all Indian wars, and would contribute materially in keeping the Indians in awe and securing the peace and tranquility of our frontier.

Your memorialists would therefore respectfully pray your honorable body, for an appropriation of three thousand dollars, for the survey of the route of said rail road, and the donation of every alternate section of land through which it passes to aid in constructing the same: Provided, That such grant may not take from any settler or claimant, his, her or their improvement, and they further pray that it may be regarded by your honorable body, as a territorial work to be undertaken for the present Territory and future State of Iowa, and that it may be under the control and direction of the Legislature of Iowa.

And as in duty bound your memorialists will ever pray, &c.

On motion, the House resolved itself into a committee of the whole on said memorial, Mr. Coop in the chair. After some time spent in the consideration thereof, the committee rose, reported the memorial without amendment, and asked the House for its concurrence.

The House refused to concur in the report.

Message from the Council, by their Secretary, Mr. Wallace.

Mr. Speaker,

The Council have passed bills (Council file,) No. 15, entitled An act prescribing the mode of trying the right of property; and

No. 25, An act to provide a standard of weight for grain, salt, &c.

Also bills (H. R. file,) No. 7, entitled An act to regulate interest on money and to prevent usury; and

No. 10, entitled An act to authorize Aaron Usher and Thomas M. Groom, to establish a ferry across the Mississippi river, with amendments, in all of which I am instructed to request the concurrence of the House. And then he withdrew.

Mr. Hall from the committee appointed yesterday for that purpose, reported bill No. 81, entitled A bill compelling persons holding offices to resign before they become candidates for offices incompatible therewith, which was read a first time.

On motion of Mr. Summers,

The rule of the House requiring all bills to be printed before their second reading, was suspended in reference to said bill; it was then read a second time, and the House, on motion, resolved itself into a committee of the whole, for the consideration thereof, Mr. Cox in the chair. The committee after some time rose, and reported the bill to the House without amendment. The House concurred in the report; and,

On motion of Mr. Burchard,

Ordered, That the bill be referred to the committee on the judiciary.

The following entitled bills were severally read a third time, passed, and titles agreed to; viz:

Bill No. 22, Council file, entitled A bill to locate^a a territorial road from Black Hawk to the southern boundary of Van Buren county; and bills H. R. file, as follows:

No. 72, A bill concerning grand and petit jurors.

No. 73, A bill for the punishment of the crime of bribery.

Ordered, That the bills No. 72 and 73 be sent to the Council for concurrence.

Bill No. 15, Council file, entitled "A bill prescribing the mode of trying the right of property," was taken up and read a first time.

Bill No. 25, Council file, entitled "A bill to provide a standard of weight for grain, salt, &c." was read a first and second time.

On motion the House resolved itself into a committee of the whole on said bill, Mr. Frierson in the chair. After some time the committee rose and reported the same negatived the House concurred in the report.

The amendments to bills No. 7 and 10, H. R. file, made by the Council were then considered and adopted.

Mr. Summers moved to adjourn.

Mr. Beeler called for the yeas and nays on the motion, which were as follow:

Yeas—Messrs. Blair, Summers and Wallace, Speaker—3.

Nays—Messrs. Bankson, Bailey, Beeler, Brierly, Burchard, Coop, Cox, Delashmutt, Frierson, Grimes, Hall, Hastings, Nowlin, Parker, Porter, Price, Roberts, Swan, Temple, and Toole—21.

So the House refused to adjourn.

On motion of Mr. Grimes,

Ordered, That the report of the committee appointed to investigate the condition of the Miners' Bank of Du Buque, be taken up. The report was then read, and on motion of Mr. Swan, concurred in.

A communication from the judges of the Supreme Court of the Territory, was announced by the Speaker and read, enclosing bills of the following titles, viz:

An act to prevent trespass upon lands.

An act in relation to bonds and other securities. And

An act to allow and regulate the action of waste.

Said bills were then, on motion of Mr. Burchard, referred to the committee on the Judiciary.

Mr. Taylor asked and obtained leave to introduce a memorial to Congress asking for a donation of land for that part of the county of Lee, embraced in the half breed tract, equal to one thirty-sixth part of said tract. Messrs. Taylor, Bailey and Brierly, were appointed a committee to prepare said memorial.

Mr. Hastings asked and obtained leave to introduce a bill concerning notaries public, and a bill in relation to the appointment and duties of sheriffs. Messrs. Hastings, Grimes and Nowlin, were appointed a committee to prepare said bills.

Mr. Hall asked leave to introduce A bill concerning guardians, apprentices, orphans, and A bill to prevent imposition from the existence of lotteries in this Territory; also, A bill to provide for the burial of dead bodies found on board of ships or other vessels. Leave was granted; and Messrs. Hall, Cox and Frierson, were appointed a committee to prepare the bills.

Mr. Frierson asked and obtained leave on to-morrow to introduce A bill concerning free negroes, mulattoes, servants, and slaves. Leave was granted.

The chair appointed a committee consisting of Messrs. Frierson, Swan and Porter, to prepare and report said bill; and then,

On motion, the House adjourned until 2 o'clock, P. M.

2 O'CLOCK, P. M.

Mr. Grimes, from the committee on the judiciary, reported bill No. 82, entitled "An act to prevent trespass upon lands;" which was read a first time.

On motion of Mr. Bailey,

Leave of absence was granted to R. D. Barton, Doorkeeper of this House, until to-morrow at 12 o'clock, M.

Mr. Toole, from the select committee, to which was referred a memorial to Congress on the subject of the navigation of the Iowa and Cedar rivers, reported the same back to the House without amendment. Said memorial was then read a second time; and, on motion, the House resolved itself into a committee of the whole for the consideration thereof, Mr. Grimes in the chair. After some time the committee rose, and reported the same without amendment. The House concurred in the report.

Mr. Cox then moved to strike out the word "multiplicity," in the second clause of said memorial, and insert instead thereof, the words "great number;" the motion was agreed to.

Mr. Grimes, from the committee on the judiciary, reported bill No. 83, entitled "A bill concerning costs and fees;" said bill was read a second time by its title, and ordered to be considered in committee of the whole, Mr. Grimes in the chair. After some time spent therein, the committee rose, reported that they had made progress, and asked leave to sit again. Leave was granted.

On motion of Mr. Grimes,

The House resolved itself into a committee of the whole, for the further consideration of bill No. 59, entitled An act for the partition of real property, Mr. Temple in the chair.

The following message from the Council by their Secretary was received.

Mr. Speaker,—

The Council have passed bills, H. R. file, as follows:

No. 4, An act regulating criminal proceedings, with amendments.

No. 42, An act to allow and regulate the action of right.

No. 49, An act to prevent the selling of spirituous liquors to Indians, with amendments.

No. 50, An act to punish the venders of unwholesome liquors and provisions.

The concurrence of the House to amendments to said bills No. 4 and 49, is requested.

I am directed to inform the House, that the Council have receded from their amendment to the 9th section of bill No. 27, H. R. file; and then he withdrew.

The committee resumed its session, and after some time rose, reported the bill to the House with amendments, and asked for its concurrence. The House concurred in the report, and the bill was ordered to be engrossed for a third reading.

On motion of Mr. Swan,

Ordered, That the report laid upon the table this morning, made by the committee on expenditures in reference to a resolution, to them referred on yesterday, was taken up; and,

On motion of Mr. Nowlin,

The House resolved itself into a committee of the whole for the consideration of said resolution, and report with accompanying resolutions, Mr. Hastings in the chair. After some time, the committee rose, reported said resolutions and report with amendments, and asked the concurrence of the House.

Mr. Nowlin moved to amend the amendment made in committee of the whole, by striking out the word "three," and inserting "four;" to which the House disagreed.

Several other amendments being proposed, Mr. Grimes called for the previous question.

On the question, "shall the main question be now put?"

The yeas and nays were called for, and were as follow:

Yeas—Messrs. Bankson, Beeler, Blair, Burchard, Coop, Cox, Delashmutt, Frierson, Grimes, Hall, Hastings, Nowlin, Roberts, Summers, Temple, Toole and Wallace, Speaker—17.

Nays—Messrs. Bailey, Brierly, Parker, Price, Swan and Taylor—6.

The main question then being, "will the House concur in the report of committee?" Mr. Taylor called for the yeas and nays on the same, which were as follow:

Yeas—Messrs. Bankson, Beeler, Blair, Burchard, Coop, Cox, Delashmutt, Frierson, Grimes, Hall, Hastings, Nowlin, Roberts, Summers, Swan, Temple, Toole and Wallace, Speaker—18.

Nays—Messrs. Bailey, Brierly, Parker, Price and Taylor—5.

So the House concurred in report made by the committee of the whole; and the resolution adopted is as follows:

Resolved, by the Council and House of Representatives of the Territory of Iowa, That the Judges of the Supreme Court of this Territory, shall each be allowed the sum of three dollars per diem, during the time they may be employed by the Legislature, for their services in drafting bills and presenting them to the Legislature for enactment.

The House adjourned.

Thursday, December 20, 1838.

Mr. Frierson presented a remonstrance of citizens of Muscatine county against the annexation of any part of said county to the county of Scott, which was referred to the committee on townships and county boundaries.

Mr. Bailey offered the following:

Resolved, That the assistant doorkeeper, assistant messenger, and assistant engrossing clerk, be discharged on the 20th inst.

On the question of the adoption of the resolution,

The yeas and nays being called for, were as follow:

Yeas—Messrs. Bailey, Beeler, Blair, Brierly, Burchard, Coop, Delashmutt, Frierson, Hastings, Patterson, Parker and Price—12.

Nays—Messrs. Bankson, Cox, Grimes, Hall, Nowlin, Porter, Summers, Swan, Taylor, Temple, Toole and Wallace, Speaker—12.

So the resolution was rejected.

On motion of Mr. Nowlin,

Resolved, That James G. Edwards be allowed the sum of forty five dollars and fifty cents, for furnishing each member of this House, with a copy of the laws of Wisconsin.

Mr. Nowlin from the committee on Enrolments, reported bills No. 6, 37, 51, and 52, as correctly enrolled.

The said bills were then signed by the Speaker, and ordered to be sent to the President of the Council for his signature.

Mr. Grimes, from the committee on the Judiciary, reported bill No. 84, entitled an act in relation to bonds and other securities.

Said bill was then read a first time.

Mr. Summers from the committee on Roads and Highways, to which was recommitted bill No. 35, H. R. file, entitled An act to authorize Wm. Hogan, to establish and keep a ferry &c. reported the same back to the House with an amendment.

Said bill was then read a second time, and considered in committee of the whole, Mr. Hastings in the chair. After some time the committee rose, reported progress, and asked leave to sit again.

Leave was granted.

Mr. Bailey from the select committee appointed for that purpose, reported bill No. 86, entitled an act fixing the time for the annual meeting of the Legislative Assembly. Said bill was then read a first and second time, and considered in committee of the whole, Mr. Nowlin in the chair. The committee after a short time rose and reported the bill with amendments.

The question then being put, "will the House concur in the report of the committee," it was determined in the affirmative.

The yeas and nays being called for, were as follow:

Yeas—Messrs. Bailey, Blair, Brierly, Burchard, Coop, Delashmutt, Frierson, Grimes, Nowlin, Patterson, Parker, Porter, Price, Roberts, Summers, Taylor and Temple—17.

Nays—Messrs. Bankson, Beeler, Cox, Hall, Swan, Toole and Wallace, Speaker—7.

Mr. Taylor moved to lay the bill on the table, which was disagreed to.

Mr. Swan moved to lay the bill on the table until the second Monday in January next; the motion was not agreed to.

The bill was then ordered to be engrossed for a third reading.

Mr. Beeler from the select committee appointed to prepare bill No. 87, entitled an act concerning the revival of statutes, reported the same. The bill was read a first time by its title.

Mr. Porter asked and obtained leave to introduce a memorial, ask-

ing Congress for a donation to effect the survey of Skunk river.

Messrs. Porter, Coop and Taylor, were appointed a committee to prepare said memorial.

Mr. Hastings from the select committee appointed to prepare bill No. 88, entitled a bill concerning notaries public, reported the same. Said bill was then read a first time by its title.

Mr. Swan, from the committee on Enrolments, reported a memorial to the Post Master General,, and acts of the following titles, viz:

An act to provide for the collection of demands against boats and vessels.

An act relating to informations in the nature of quo warranto, and regulating the mode of proceeding thereon.

An act to regulate ferries; to have been this day presented to the Governor for his approval.

Mr. Grimes, from the committee on the Judiciary, reported bill No. 89, entitled an act to allow and regulate the action of waste.

Said bill was then read a first time by its title.

Mr. Hall, from the committee appointed for that purpose, reported bills No. 90, entitled an act to provide for the burial of dead bodies, &c.; and No. 91, entitled an act to prevent imposition by way of lottery in this Territory.

Said bills were read a first time by their titles.

On motion of Mr. Grimes,

The House again resolved itself into a committee of the whole, for the consideration of bill No. 83, H. R. file, entitled a bill concerning costs and fees, Mr. Hall in the chair. After some time spent therein, the committee rose, and by their chairman, reported said bill with amendments, in which the House concurred.

On motion of Mr. Bailey,

The bill was recommitted to the committee on the Judiciary.

Bill No. 15, Council file, entitled an act prescribing the mode of trying the right of property, was taken up, read a second time, and ordered to be considered in committee of the whole, Mr. Patterson in the chair. The committee rose after some time, and reported said bill with an amendment, in which the House concurred.

On motion of Mr. Grimes,

The bill was committed to the committee on the Judiciary.

Bill No. 69, H. R. file, entitled an act regulating the publication and distribution of the laws and journals of the Legislative Assembly of the Territory of Iowa, and the reprinting of sundry local acts of the Territory of Wisconsin, and for other purposes. was taken up, read a second time, and considered in committee of the whole, Mr. Porter in the chair. After some time the committee rose, reported progress, and asked leave to sit again. Leave was granted.

On motion, the House adjourned until 2 o'clock, P. M.

2 O'CLOCK, P. M.

Mr. Swan asked leave at some future day, to bring in a memorial asking Congress to so far amend the organic law of Iowa, as to enable the Legislative Assembly of this Territory, to pass any law by

a majority of two thirds of all members present, notwithstanding the same may have been returned to either house by the Executive, with his objections and disapproval. Leave was granted. The chair then appointed Messrs. Swan, Grimes and Cox, a committee to prepare said memorial.

The amendments made by the Council, to bill No. 4, H. R. file, were read and severally concurred in, except that made to the 122d section, which was disagreed to.

Bill No 49, H. R. file, as amended by the Council, was then taken up, when the House disagreed to the amendment.

Mr. Swan from the committee on Enrolments, reported bill No. 86, entitled an act fixing the time for the annual meeting of the Legislative Assembly as correctly engrossed.

Mr. Porter offered the following:

Resolved, That the House of Representative adjourn on Friday the 21st inst. at 12 o'clock M. until Thursday the 27th inst. at 10 o'clock A. M.

On motion of Mr. Taylor,

The resolution was laid on the table.

Bill No. 69, H. R. file, entitled an act regulating the publication and distribution of the laws and journals, was taken up, and on motion, the House again resolved itself into a committee of the whole on the same, Mr. Nowlin in the chair. After some time the committee rose and by their chairman, reported said bill with an amendment. The House concurred in the report of the committee, and, on motion, said bill was referred to a committee of one member from each electoral district.

Messrs. Bankson, Hall, Blair, Burchard, Porter, Toole, Roberts and Patterson, were appointed said committee.

On motion of Mr. Summers,

The vote by which the resolution to adjourn presented on this afternoon, was laid on the table, was reconsidered. On the question "shall said resolution be adopted?" it was determined in the affirmative.

The yeas and nays being called for, were as follow:

Yeas—Messrs. Bankson, Brierly, Burchard, Coop, Cox, Hall, Nowlin, Patterson, Porter, Price, Roberts, Summers, Swan, Temple, Toole and Wallace, Speaker—16.

Nays—Messrs. Beeler, Blair, Delashmutt, Frierson, Grimes, Hastings, and Taylor.—7.

Mr. Nowlin asked and obtained leave to introduce a bill appointing a fiscal agent.

Messrs. Nowlin, Frierson and Summers, were appointed a committee to prepare said bill.

Mr. Nowlin moved that the House adjourn.

Mr. Grimes moved to amend the motion, by adjourning until next Monday week, at 10 o'clock, A. M.

The question being taken on the adoption of the amendment, it was determined in the negative.

The yeas and nays being called for, were as follow:

Yeas—Messrs. Burchard, Cox and Grimes—3.

Nays—Messrs Bankson, Bailey, Beeler, Blair, Brierly, Coop,

Delashmutt, Frierson, Hall, Hastings, Nowlin, Patterson, Parker, Porter, Price, Roberts, Summers, Swan, Taylor, Temple, Thornton, Toole and Wallace, Speaker—23.

The question was then put on the motion to adjourn, and determined in the affirmative.

Friday, December 21, 1838.

Mr. Summers asked leave of absence for Mr. Burchard, until Monday week. Leave was granted.

On motion of Mr. Patterson,

Resolved, That Charles Weston be allowed twelve dollars for two days services as chief clerk of this House.

On motion of Mr. Nowlin,

Resolved, By the Council and House of Representatives of the Territory of Iowa, That William B Conway, Esq. be and he is hereby appointed fiscal agent of the Legislative Assembly during its present session, and that all advances of money made by him shall be refunded to him out of such money as shall hereafter be appropriated by Congress.

Mr. Frierson, from the committee on townships and county boundaries, to which was referred the petition of sundry citizens of Des Moines and Henry counties, praying that an additional range of townships be attached to said county of Des Moines, reported,

That the committee had had the petition under consideration, and are unanimously of opinion that the prayer of the petitioners is unreasonable and ought not to be granted.

The report of the committee was concurred in.

Mr. Swan from the committee on enrollments, reported the following entitled acts as correctly enrolled, viz:

An act to punish the venders of unwholesome liquors and provisions.

An act concerning divorces.

An act to regulate interest on money, and to prevent usury; and,

An act to authorize Aaron Usher and Thomas M. Groom to keep a ferry.

The said acts were then signed by the Speaker, and the Clerk directed to present them to the President of the Council for his signature.

Mr. Hastings asked leave of absence for Mr. Roberts of Cedar county, until Monday week. Leave was granted.

Bill No. 67, H. R. file, entitled A bill to establish the boundaries of Lee county, was read a second time and considered in committee of the whole, Mr. Price in the chair. After some time the committee rose, reported [the bill without amendment, and requested the concurrence of the House.

Mr. Cox moved to lay the bill on the table, and that it be made the order of the day for Friday next. The question being put,

"shall the bill lie on the table?" it was determined in the affirmative.

The yeas and nays being called for, were as follow:

Yeas—Messrs. Bankson, Bailey, Beeler, Blair, Cox, Delashmutt, Frierson, Grimes, Hastings, Nowlin, Swan and Temple—12.

Nays—Messrs. Brierly, Coop, Patterson, Parker, Price, Summers, Taylor, Toole and Wallace, Speaker—9.

The following message from the Council, was received by their Secretary, Mr. Wallace:

Mr. Speaker,—

The Council have concurred in all the amendments made by the House to bill No. 6, Council file.

I am instructed to inform the House that the Council insist upon their first amendment to memorial of the House to the Congress of the United States on the subject of a penitentiary, and have receded from their second amendment to said memorial; and have rejected memorial, of the House, on the subject of an additional appropriation to defray the expenses of this Legislative Assembly. I am also directed to inform the House that the Council have adhered to their amendments to bill No. 16, H. R. file, An act to provide for the election of county treasurers, &c.

The Council also insist upon their amendments to bill No. 5, H. R. file, An act to provide for the safe keeping &c., of the Territorial Library; and have appointed Messrs. Hempstead, Parker and Inghram, a committee of conference in relation thereto.

The Council have also passed bills of the House of Representatives, entitled as follows, with amendments:

An act for the relief of securities of persons charged with criminal offences.

An act to authorize clerks, &c. to appoint deputies, &c.

Also bills of the Council entitled as follows:

No. 26, An act to establish the boundaries of Louisa county, and for other purposes.

No. 24, An act for the prevention of frauds.

In all of which the concurrence of the House is requested.

The Council have also passed bill No. 53, H. R. file, An act to authorize Ralph Letton to keep a ferry, &c. without amendment.

They have also passed a resolution to the House, authorizing the Judges of the Supreme Court to receive a per diem allowance for services rendered the Legislative Assembly, with an amendment. And then he withdrew.

Bill No 44, H. R. file, entitled "A bill concerning the seat of justice of Scott county," was taken up, and on motion, ordered to lie on the table and be made the order of the day for Friday week.

Bill No. 86, H. R. file, entitled "A bill fixing the time of the annual meeting of the Legislative Assembly," was taken up and read a third time; when Mr. Nowlin moved to lay the same on the table; to which the House disagreed.

The question being then put, "shall the bill pass?" it was determined in the affirmative.

The yeas and nays being called for were as follow:

Yeas—Messrs. Beeler, Blair, Brierly, Coop, Delashmutt, Frier-

son, Grimes, Hastings, Nowlin, Patterson, Parker, Porter, Price, Summers, Taylor and Temple—16.

Nays—Messrs. Bankson, Cox, Swan, Toole and Wallace, Speaker—5.

Memorial to Congress, on the subject of the navigation of the Iowa and Cedar rivers, was then read a third time.

The question then being put, "shall the memorial pass?" it was determined in the affirmative.

The yeas and nays being called for were as follow:

Yeas—Messrs. Beeler, Blair, Brierly, Coop, Delashmutt, Frierson, Grimes, Hastings, Nowlin, Parker, Porter, Price, Summers, Swan, Taylor, Temple, Toole and Wallace, Speaker—18.

Nays—Messrs. Bankson and Cox—2.

On motion, the House adjourned.

Thursday, December 27, 1838.

The House met pursuant to adjournment; there not being a quorum present, the Messenger was despatched to procure the attendance of absent members. After a short time a quorum appeared.

Mr. Cox then presented petitions as follows:

Of citizens of Charleston, in Jackson county, praying for the establishment of a bank at that place. Of James Leonard and others, inhabitants of Jackson county, praying that a charter may be granted them to keep a ferry a Charleston. Of sundry citizens of Jackson county, asking that a portion of the present county of Clinton, be attached to Jackson.

The two first named petitions, were, on motion of Mr. Bankson, referred to the committee on corporations; and the last to the committee on townships and county boundaries.

Mr. Frierson presented the petition of Joseph Williams and others, inhabitants of Bloomington, in Muscatine county, praying that a charter be granted to them and their associates, for a company to improve the Muscatine Slough. The petition was referred to the committee on townships and county boundaries.

On motion of Mr. Hastings,

A committee was appointed to confer with a similar committee of the Council, in relation to the disagreement of the two Houses on bill No. 16, H. R. file. Messrs. Hastings, Blair and Cox, were appointed the committee on the part of the House; a like committee was also appointed to confer in relation to a similar disagreement on bill No. 5, H. R. file, and Messrs. Hastings, Grimes and Nowlin, were appointed to constitute said committee.

On motion of Mr. Grimes,

Ordered, That the committee on territorial affairs, to which was referred that part of the Governor's Message which relates to the location of the seat of Government of this Territory, be instructed to report to this House as soon as practicable.

Mr. Summers from the committee on roads and highways, to which was referred certain petitions, asking for the establishment of territorial roads, reported bill No. 92, entitled An act establishing certain territorial roads; said bill was read a first time.

Mr. Summers from the committee on townships and county boundaries, reported bill No. 92, entitled A bill to define the boundaries of the counties of Clinton and Scott; which was read, and

On motion of Mr. Hastings,

Laid on the table.

Mr. Nowlin from the committee on enrollments, reported the following entitled Acts to have been presented to the Governor for his approval, on the 25th inst., viz:

An act to prevent and punish gambling.

An act defining the duties of county surveyors; and

An act providing for the establishment of common schools; also

That a bill entitled An act to authorize the Legislative Assembly to punish for contempt, and to privilege members from arrest, had been correctly enrolled.

Bill No. 71, H. R. file, entitled A bill for the support of illegitimate children, was taken up read a second time, and considered in committee of the whole, Mr. Roberts in the chair. After some time the committee rose, and reported the bill with amendments. The House concurred in the report of the committee, and ordered said bills to be engrossed for a third reading.

Bills, Council file, No. 24, entitled A bill for the prevention of frauds; and

No. 26, entitled A bill to establish the boundaries of Louisa county, and for other purposes, were taken up and read a second time by their titles.

Bill No. 70, H. R. file, entitled A bill to incorporate the Bloomington and Cedar river canal company, was taken up, read a second time, and ordered to be considered in committee of the whole, Mr. Summers in the chair. After some time the committee rose and reported the bill to the House with amendments, which were concurred in.

Mr. Nowlin moved that the 22d section of said bill be stricken out; which was not agreed to.

On motion of Mr. Grimes,

The following proviso was added to the 22d section, viz: "Provided that the whole amount loaned at any time by said corporation, shall not exceed \$200,000; which privilege of loaning money shall continue ten years from the passage of this act."

On motion of Mr. Cox,

The blank in the third section of said bill was filled with the following names, to wit: "Joseph Williams, John Vanater, Adam Ogilvie, Charles A. Warfield, Suel Foster, William Gordon, Henry Gillet, William D. Viele, Charles Whittlesey, James W. Tollman, John G. Foy."

On motion of Mr. Frierson,

The blank in the 3d, line, of the 4th section was filled with the word "Bloomington."

The bill was then ordered to be engrossed for a third reading.

The amendment of the Council, made to a joint resolution passed this House, paying the Judges of the Supreme Court for certain services, was disagreed to.

Mr. Nowlin from the committee on enrollments, reported, An act to establish a seminary of learning at Wapello, in Louisa county, as having been correctly enrolled.

Mr. Hasting asked and obtained leave at a future day, to bring in a bill concerning amendments and jeofails.

Messrs. Hastings, Bankson and Roberts, were appointed a committee, to prepare the bill.

On motion, the House adjourned.

2 O'CLOCK, P. M.

Bill No. 75, H. R. file, entitled "An act concerning water crafts, lost goods found adrift &c." was taken up, read a second time, and ordered to be considered in committee of the whole, Mr. Temple in the chair.

The following message from the Council was received by their Secretary.

Mr. Speaker,—

I am directed to present for your signature, bills of the Council of the following titles:

An act to establish a seminary at Wapello in Louisa county; and

An act to authorize the Legislative Assembly to punish for contempt and to privilege members from arrest.

I am also instructed to inform the House, that the Council have passed bill No. 33, H. R. file, entitled An act allowing and regulating writs of attachment, with amendments; in which the concurrence of the House of Representatives is requested.

I am also instructed to inform the House that the Council insist upon their amendments to bills No. 49, H. R. file, entitled An act to prevent the selling of spirituous liquors to Indians; and have receded from their amendment to the 122d section of bill No. 4, H. R. file, An act regulating criminal proceedings.

The Council have also concurred in resolution of the House appointing a fiscal agent. Then he withdrew.

After some time spent in the consideration of said bill, No 79, the committee rose and reported the same with amendments; in which the House concurred. The bill was then ordered to be engrossed for a third reading.

Mr. Swan, from the committee on enrollments, reported as correctly enrolled bill No. 42, H. R. file, entitled "An act to allow and regulate the action of right;" which was duly signed by the Speaker, and the clerk directed to present the same to the President of the Council for his signature.

Mr. Nowlin from the committee on territorial affairs, reported bill No. 94, H. R. file, entitled A bill to locate the seat of government; which was read a first time.

Mr. Swan from the committee appointed for that purpose, reported a memorial to Congress, asking that the organic law of the Territory

may be so far amended as to enable the Legislative Assembly to enact laws, the Governor dissenting therefrom, by a vote of two thirds; which was read a first and second time, and considered in committee of the whole, Mr. Toole in the chair. The committee rose, after a short time, reported the memorial without amendment, and asked the concurrence of the House. The report was concurred in, and the memorial ordered to be engrossed and read a third time, and is as follows:

To the Honorable the Senate and House of Representatives of the United States, in Congress assembled.

Your memorialists, the Council and House of Representatives of the Territory of Iowa, respectfully represent; That in the 2d section of the Organic Law of the Territory of Iowa, we find that the Governor of this Territory, has an absolute veto on all laws, which may be enacted by the Representatives of the people of this Territory.

Your memorialists would also represent, that a power thus given to an Executive, is, in their opinion, incompatible with the free institutions and government under which it is their pride and boast to live; a law which invests any officer under our general government, with such unlimited powers might (when used without due deliberation on the part of an Executive) lead to unpleasant results, and embarrass the operations of the different branches of our territorial government, and create disagreement where none should exist.

We, your memorialists, would therefore respectfully request, that the Organic Law of this Territory may be so amended that any bill which may be returned to the Council or House of Representatives, by the Governor of this Territory with objections, and his disapproval can be again taken up and passed by a majority of two thirds of all members present in each House, and that said passage shall have the effect to make any such law as good and valid as it would have been if approved of by the Executive.

All of which is respectfully submitted to your honorable body.

Mr. Hastings presented the remonstrance of sundry inhabitants of Cedar and Muscatine counties, against any alteration in the boundaries of said county. Referred to the committee on townships and county boundaries.

Mr. Hastings from the select committee appointed for that purpose, reported bill No. 95, entitled A bill for the appointment and duties of sheriffs; said bill was read a first time by its title.

Mr. Swan from a select committee appointed to take into consideration the expediency of granting a divorce to Jacob Bailey, from his wife Nancy Bailey, according to the prayer of a petition on that subject to them referred, reported that they had had the same under consideration and believe that it is inexpedient for this House to grant the prayer of the petitioner, in consequence of a general law, concerning divorces, having passed the Council and House of Representatives, making it the duty of the several district courts of this Territory, to grant divorces on application and proof according to the provisions of said act, and asked to be discharged. The report was concurred in.

On motion of Mr. Summers,

The House resolved itself into a committee of the whole, for the consideration of bill No. 35, H. R. file, entitled A bill to authorize Wm. Hogan, to keep a ferry across the Mississippi river, Mr. Bankson in the chair. The committee after some time rose and reported said bill without amendment, and pending the question "will the House concur in the report of the committee?" it was,

On motion of Mr. Grimes,

Ordered, That the further action of the House on said bill be postponed until Tuesday next.

Mr. Wallace, the Secretary of the Council, being introduced, informed the House that the Council had insisted upon their amendment to a resolution authorizing the Secretary of the Territory to pay the Judges of the Supreme Court, &c.; and had appointed Messrs. Hempstead, Clark and Inghram, a committee of conference in relation to the disagreement of the two Houses.

On motion of Mr. Swan,

A committee similar to the foregoing one, appointed by the Council, consisting of Messrs. Swan, Bailey and Toole, were appointed on the part of the House.

The amendments made by the Council to bill No. 56, H. R. file, were read and concurred in.

Memorial on the subject of a penitentiary, as amended by Council, was taken up and concurred in.

Mr. Grimes, from the committee on the judiciary, to which was referred bill No. 83, H. R. file, entitled An act concerning costs and fees, reported the same back to the House with an amendment; and on motion, the House considered said bill, as amended, in committee of the whole, Mr. Beeler in the chair. After a short period, the committee rose and reported the bill under consideration with an amendment, in which the House concurred. Said bill was then ordered to be engrossed for a third reading.

Mr. Swan, from the committee of conference appointed this afternoon, reported that the committee had had an interview with the one appointed on the part of the Council in relation to a disagreement of the two Houses as to the terms of a resolution paying the supreme Judges, &c. and had agreed to concur in the following amendment thereto:

Between the words "they" and "employ," strike out the words "may be," and insert "have been."

The question being then put upon the adoption of the amendment made to said resolution by Council, and the concurrence of the House in the report of the committee of conference, it was determined in the negative.

The yeas and nays being called for, were as follow:

Yeas—Messrs. Bailey, Cox, Patterson, Porter, Price, Swan, Taylor, Temple, Toole and Wallace, Speaker—10.

Nays—Messrs. Bankson, Beeler, Blair, Delashmutt, Frierson, Grimes, Hastings, Nowlin, Roberts, Summers and Thornton—11.

The amendments made by the Council to bill No. 33, H. R. file, entitled A bill allowing and regulating writs of attachment, and for

other purposes, were severally read and concurred in; except those made to the 1st, 16th and 17th sections which were disagreed to; also the second amendment in the form of the writ.

Bill No. 49, H. R. file, as amended by Council, was taken up and concurred in.

On motion of Mr. Swan,

Resolved, That the Hon. Thomas S. Wilson, associate Judge of the Supreme Court of this Territory, be entitled to three dollars per diem, for the time he has been employed by this House in drafting laws, and that the certificate of the Speaker and chief clerk, shall be a sufficient voucher for the Secretary of this Territory to disburse, and he is hereby requested to pay the same.

Mr. Nowlin offered the following:

Resolved, By the Council and House of Representatives of the Territory of Iowa, That his Excellency Gov. Lucas, is hereby respectfully requested to inform each House of the Legislative Assembly, of all acts by him approved during the present session; and that he is further requested hereafter to inform the House in which a bill originated of his approval thereof immediately after the same has been given.

Mr. Bailey moved that the resolution be laid upon the table, to which the House disagreed.

The question being then put, "shall the resolution be adopted?" it was determined in the affirmative.

The yeas and nays being called for were as follow:

Yeas—Messrs. Bankson, Cox, Delashmutt, Grimes, Hastings, Nowlin, Porter, Roberts, Summers, Swan, Taylor, Temple, Thornton, Toole and Wallace, Speaker—15.

Nays—Messrs. Bailey, Beeler, Blair, Frierson, Patterson and Price—6.

Mr. Patterson presented the remonstrance of David W. Kilbourn and G. Erskine for themselves, the New York Company, and others whom they represent, praying that An act for the partition of the half breed lands and for others purposes, passed at the last annual session of the Legislative Assembly of Wisconsin, may not be repealed. The remonstrance was referred to the committee on the judiciary.

Mr. Bailey presented the petition of inhabitants of Van Buren county, praying that a charter to erect a dam, with a lock attached, across the Des Moines river at Bentonsport in said county, be granted to Henry Eno & Co.

On motion, said petition was referred to the committee on corporations; and then,

On motion, the House adjourned.

Friday, December 28, 1838.

On motion of Mr. Cox,

Resolved, That a committee be appointed to bring in a memorial asking Congress to have the Rapids on the Mississippi river,

above Rock Island, examined and surveyed by competent engineers; and that said memorial ask of Congress a donation in land of sufficient value to make a steam boat canal from the head of said rapids to the foot of the same, in the territory of Iowa.

Whereupon, Messrs. Cox, Bankson, Swan, Frierson and Roberts, were appointed said committee.

Mr. Swan from the committee on corporations, to which was referred on yesterday, the petition of inhabitants of Van Buren county, reported bill No. 96, entitled an act to authorise Henry Eno & Co. to construct a dam across the Des Moines river. Which bill was read a first time.

Mr. Hastings from the joint committee appointed to confer with a like committee of the Council, in relation to a disagreement of the two houses to an amendment made to bill No. 5, H. R. file, entitled a bill to provide for the safe keeping and management of the Territorial Library, reported that the committee on the part of the Council insisted upon said amendment, while that of the House disagreed to the same.

The report was recieved, and the House adhered to said disagreement.

Mr. Nowlin from the committee on Enrolments, reported as correctly enrolled,

A bill to locate and establish a territorial road from Black Hawk in Louisa county, via. Mount Pleasant, to the southern boundary of Van Buren county; and

A memorial to Congress for the relief of Jeremiah Smith.

Mr. Cox, from the select committee appointed on the 12th inst., to take into consideration bill No 58, H. R. file, and report the same with such amendments as they might deem proper, reported the same with amendments. On motion, the House resolved itself into a committee of the whole for the further consideration of said bill and amendments, Mr. Coop in the chair. After a considerable time spent therein, the committee rose, reported that they had made progress and asked leave to sit again. Leave was granted.

Mr. Summers, from the select committee appointed for that purpose, reported a memorial to Congress, asking for an appropriation of three thousand dollars, to defray the expenses of a survey of a rail road leading westward from the town of Rockingham. The memorial was read a first time; and is as follows:

To the Honorable, the Senate and House of Representatives of the United States, in Congress assembled.

Your memorialists, the Council and House of Representatives of the Territory of Iowa, respectfully represent, That a large and valuable portion of the national domain is embraced within the limits of Iowa; and that rail roads and other facilities are much needed from different points on the Mississippi river, into the interior.—Your memorialists would further represent that there is already an appropriation made by Congress to cut a canal from lake Michigan to the navigable waters of Rock river in the territory of Wisconsin, and the state of Illinois has made a sufficient appropriation to clear out the Rapids in Rock river, which will open a communication

between lake Michigan and the Mississippi river at the town of Rockingham. Your memorialists further represent, that the country north west of Rockingham, in the direction of Johnson county, is rapidly settling with industrious and enterprising citizens.

Your memorialists would respectfully state that, whilst they regard with gratitude the past favors of the government toward this Territory, they yet feel impelled to call the attention of your honorable bodies to a subject of no less importance to the interests of the government than it is to the citizens of Iowa. Your memorialists refer to the construction of a rail road from Rockingham on the Mississippi river, through the counties of Scott and Rochester, in Cedar county, and terminate at some point in Johnson or Linn counties.

Your memorialists most confidently believe that by the construction of such a road a profitable market will be opened for all agricultural productions—the facilities of commerce will be increased, and a large and profitable trade retained within our own limits.—These are considerations which have exerted a great influence upon the minds of your memorialists, and they believe they will not fail to be appreciated by your honorable bodies.

Your memorialists would therefore respectfully pray your honorable bodies for an appropriation of three thousand dollars for a survey of the route of said rail road, and the donation of every alternate section of land through which it passes to aid in its construction: *Provided*, That such grant may not take from any settler or claimant his, her, or their improvement. And they further pray that it may be regarded by your honorable bodies, as a territorial work, to be undertaken for the benefit of the present Territory and future State of Iowa, and that it may be under the control and direction of the Legislature of Iowa.

And as in duty bound, your memorialists will ever, &c.

The order of the day being, in part, the consideration of bill No. 67, H. R. file, entitled a bill to establish the boundaries of Lee county, the same was taken up, read a second time, and,

On motion of Mr. Patterson,

Ordered, to be postponed until Friday next.

Bill No. 78, H. R. file, entitled an act for the establishment of Courts of Probate, was next taken up, read a second time, and considered in committee of the whole, Mr. Coop in the chair. After some time the committee rose, and reported said bill with amendments. The House concurred in the report of the committee; and ordered that the bill be engrossed for a third reading.

On motion, the House adjourned until 2 o'clock, P. M.

2_O'CLOCK, P. M.

Mr. Toole, from the committee on Enrolments, reported bill No. 59, H. R. file, entitled an act to provide for the partition of real property, as correctly engrossed.

Bill No. 26, Council file, entitled A bill to establish the boundaries of Louisa county, to locate the seat of justice of said county, and for other purposes, was taken up, read a second time and con-

sidered in committee of the whole, Mr. Frierson in the chair. After a short time the committee rose and reported the bill without amendment. The House concurred in the report of the committee; and pending the question "shall the bill be engrossed and read a third time?"

On motion of Mr. Grimes,

A call of the House was had, and the following gentlemen found to be absent: Messrs. Brierly, Brurchard, Hall, Roberts, Temple and Thornton.

The sergeant at arms being also absent, on motion of Mr. Summers, the Messenger was sent for the absent members.

On motion of Mr. Taylor,

Leave of absence was granted to the Sergeant at arms of this House until to morrow morning.

After a short time the messenger returned and reported the attendance of several absentees.

Mr. Thornton, then offered the following amendment:

Strike out section first in said bill and insert the following:

Sec. 1. That the boundaries of Louisa county shall be as follow to wit: beginning at the main channel of the Mississippi river, on the township line dividing township seventy one and seventy two north, thence west with said line to the line between the counties of Des Moines and Henry, thence north with said line to the line dividing township seventy three and seventy four, thence west on said line to the range line between five and six west, thence north with said line to the township line dividing townships seventy six and seventy seven north, thence east with said line to the line of Muscatine county, thence south with said county line to the line dividing townships seventy five and seventy six north, thence east with said line to the Mississippi river, thence down the main channel of said river to the place of beginning.

Pending the question on the adoption of the amendment, Mr. Nowlin called for the previous question.

The question being put "shall the main question be now put?" it was determined in the affirmative.

The question then being shall the bill be engrossed and read a third time? it was put and determined in the affirmative.

The yeas and nays being called for, were as follow:

Yeas—Messrs. Bailey, Cox, Frierson, Hastings, Patterson, Price, Summers, Swan, Taylor, Thornton, Toole and Wallace, Speaker—12.

Nays—Messrs. Bankson, Beeler, Blair, Coop, Delashmutt, Grimes, Nowlin, Parker, Porter, Roberts and Temple—11.

Mr. Swan, from the committee on Enrolments, reported the following acts as correctly enrolled.

An act to prevent the selling of spirituous liquors.

An act for the relief of securities of persons charged with criminal offences.

Also a memorial to Congress asking for an amendment of the organic law of the Territory of Iowa, as correctly engrossed.

The Speaker signed the foregoing acts, and the clerk was directed to present them to the President of the Council for his signature.

Bill No. 59, H. R. file, entitled a bill to provide for the partition of real property, was read a third time, passed, and the title agreed to.

On motion of Mr. Cox,

The House again went into a committee of the whole, Mr. Coop in the chair, having under consideration bill No. 58, entitled a bill to provide for the appointment of Justices of the Peace, to prescribe their powers and duties, and regulate their proceedings. After some time spent therein the committee rose, reported progress, and asked and obtained leave to sit again.

Mr Grimes, from the committee on the Judiciary to which was referred bill No. 7, Council file, entitled an act relating to the office of recorder of deeds, reported the same back to the House with amendments.

Memorial to Congress praying that body to amend the organic law of this Territory, was taken up and read a third time.

The question being then put, "shall the memorial pass?" it was determined in the affirmative.

The yeas and nays thereon being called for by Mr. Summers, were as follow:

Yeas—Messrs. Bankson, Bailey, Beeler, Coop, Cox, Delashmutt, Frierson, Grimes, Hastings, Nowlin, Patterson, Parker, Porter, Price, Roberts, Summers, Swan, Taylor, Temple, Toole and Wallace, Speaker—21.

Nays—Messrs. Blair and Thornton—2.

Mr. Price asked leave at a future day, to introduce a bill regulating mills and millers; leave was granted, and Messrs Price, Swan and Roberts were appointed a committee to prepare the same.

Mr. Hastings moved that the bill locating the seat of government of this territory be made the order of the day for to morrow. The House disagreed to the motion.

Mr. Porter moved that the vote of yesterday, by which a resolution was adopted paying the Hon. T. S. Wilson, for his services in drafting laws and presenting them, for the consideration of this House be reconsidered; which motion was disagreed to.

The yeas and nays being called, were as follow:

Yeas—Messrs. Bailey, Coop, Patterson, Parker, Porter, Price and Taylor—7.

Nays—Messrs. Bankson, Beeler, Blair, Cox, Delashmutt, Frierson, Grimes, Hastings, Nowlin, Roberts, Summers, Swan, Temple, Thornton, Toole and Wallace, Speaker—16.

On motion, the House adjourned.

Saturday, December 29, 1838.

On motion of Mr. Summers,

Resolved, That the committee on elections be instructed to report a bill fixing the time of holding the annual elections in this Territory and defining the qualifications of voters.

Mr. Frierson, from the special committee appointed for that purpose, reported bill No. 97, entitled A bill to regulate blacks and mulattoes, and to punish the kidnappers of such persons.

Said bill was, on motion, read a first time by its title, and the rule in reference to printing the same, suspended.

Mr. Swan, from the committee on Enrolments, reported a memorial to Congress on the subject of a penitentiary to be erected in this territory as correctly enrolled. The Speaker then signed said memorial and the clerk was directed to present the same to the President of the Council for his signature.

On motion of Mr. Cox,

The House again resolved itself into a committee of the whole, for the further consideration of bill No. 58, entitled an act providing for the appointment of Justices of the Peace, defining their duties &c., Mr. Delashmutt in the chair. After much time occupied therein the committee rose and reported the bill with amendments; the report of the committee was received and the amendments adopted.

On motion of Mr. Bailey,

Said bill was further amended by striking out the 9th section, of the 3d article of the same.

The bill was then ordered to be engrossed and read a third time.

The following message from the Council was received, by their Secretary, Mr. Wallace:

Mr. Speaker,—

I am instructed to inform the House that the Council have passed bill No. 54, H. R. file, An act regulating weights and measures; and bill No. 65, H. R. file, An act to prevent disasters on steam boats, navigating the waters within the jurisdiction of this Territory, without amendment.

The Council have also passed bill No. 27, Council file, An act concerning apprentices and servants, in which the concurrence of the House is requested.

I am also instructed to inform the House that the Council insist upon their amendments to the 1st, and 17th sections bill No. 33, H. R. file; also the amendment to the form of the writ; and have receded from their amendment to the 16th section of said bill.

And then he withdrew.

Mr. Grimes, from the committee on the Judiciary, reported bill No. 98, entitled An act for assessing and collecting county revenue; which was read, and in accordance with a resolution of the House, committed to a committee of the whole, Mr. Hall in the chair. After some time the committee rose, reported that they had made progress in the consideration of the bill and asked and obtained leave to sit again.

The Speaker announced the following communication from his Excellency the Governor of the Territory:

EXECUTIVE DEPARTMENT, IOWA TERRITORY,

DEC. 29TH, 1839. }

To the House of Representatives of the Legislative Assembly.

GENTLEMEN—There was this morning presented to me for my consideration a resolution in the following words:

Resolved by the Council and House of Representatives of the Territory of Iowa, That Wm. B. Conway, Esq., be, and he is hereby appointed "fiscal agent" of the Legislative Assembly, during its present session, and that all advances of money made by him shall be refunded to him out of such money as shall hereafter be appropriated by Congress. (Signed)

W. H. WALLACE, Speaker H. R.

J. B. BROWNE, Pres't. of Council.

There is no part of the resolution than can meet with my concurrence. Both the creation of the agent and the power attempted to be conferred by the resolution, I believe to be in contravention of the organic law.

The Secretary of the Territory is, by the organic law, created the disbursing agent of the appropriation made by Congress, to defray the expenses of the present legislative assembly, and this legislative assembly, in my opinion, has no power directly or indirectly, to control the application of money that may be appropriated by Congress to defray the expenses of the next legislative assembly.

Under this impression, I return the resolution with my entire dissent.

Very respectfully, your obedient servant,
ROBERT LUCAS.

On motion of Mr. Nowlin,

The foregoing message was referred to a select committee.

Messrs. Nowlin, Grimes, Swan, Taylor and Porter were thereupon appointed said committee; and then,

On motion, the House adjourned until 2 o'clock, P. M.

2 O'CLOCK, P. M.

Mr. Toole, from the committee on Enrolments, reported as correctly engrossed bill No. 71, H. R. file, entitled a bill for the support of illegitimate children.

Mr. Nowlin, from the same committee, reported that the following entitled acts had been this day presented to the Governor for his approbation, viz:

An act to locate and establish a territorial road from Black Hawk in Louisa county, via Mount Pleasant, to the southern bounday of Van Buren county.

An act to allow and regulate the action of right.

An act to establish a seminary of learning at Wapello, in Louisa county.

An act to provide for laying out and opening territorial roads.

An act to authorize the Legislative Assembly to punish for contempt and to privilege members from arrest.

Also a memorial to the Congress of the United States, for the relief of J. Smith, jr.

On motion of Mr. Bailey,

Resolved, That the resolution of November 26th ult. setting apart every Friday in each week to discuss the subject of county seats and county lines, be hereby rescinded.

This journal set by hand

Mr. Patterson moved that the vote of yesterday, by which bill No. 67, H. R. file, entitled a bill to establish the boundaries of Lee county, was laid on the table, be reconsidered.

Mr. Nowlin moved to lay the motion on the table; and pending the question on the motion of Mr. Nowlin, a call of the House was had, and the Messenger sent for absent members.

On motion of Mr. Grimes,

After a short period, several absentees having appeared, Mr. Hastings moved to amend the motion to lay on the table the motion of Mr. Patterson, by adding "until Monday morning next," which was agreed to.

The question being then put "shall the motion of Mr. Patterson be laid on the table until Monday morning next?" it was decided in the affirmative.

The yeas and nays being called for were as follow:

Yeas—Messrs. Bankson, Bailey, Beeler, Coop, Cox, Delashmutt, Frierson, Grimes, Hall, Hastings, Nowlin, Roberts, Summers, Swan, Temple, Toole and Wallace, Speaker—17.

Nays—Messrs. Brierly, Patterson, Parker, Porter, Price, Taylor and Thornton—7.

Bill No. 7, Council file, entitled a bill relating to the office of Recorder of Deeds, as amended by the committee on the Judiciary, was, on motion, considered in committee of the whole, Mr. Frierson in the chair. After some time the committee rose, and reported said bill with amendments in which the House concurred.

The bill was then ordered to be engrossed for a third reading.

The House resolved itself into a committee of the whole, Mr. Hall in the chair, for the further consideration of Bill No. 98, H. R. file, entitled A bill for assessing and collecting county revenue. After some time the committee rose, reported progress, and asked leave to sit again. Leave was granted.

Bill No. 24, Council file, entitled a bill for the prevention of frauds, was read, and considered in committee of the whole, Mr. Grimes in the chair. After some time the committee rose and reported the same to the House with amendments. The report of the committee was received, and the amendments adopted.

The bill was then ordered to be engrossed and read a third time.

Bill No. 77, H. R. file, entitled an act to authorize Benjamin Nye to build a dam across Pine river, was read a second time and considered in committee of the whole, Mr. Nowlin in the chair. The committee rose after a short time, and reported the bill without amendment. The House concurred in the report of the committee, and ordered said bill to be recommitted to the select committee which reported it.

Bill No. 82, H. R. file, entitled an act to prevent trespass on lands was read and considered in committee of the whole, Mr. Hastings in the chair. After a short time the committee rose and reported the same negatived.

Mr. Frierson moved to lay the enacting clause on the table, which was disagreed to.

Mr. Beeler then moved that the enacting clause be referred to a select committee; the motion was not agreed to.

On motion of Mr. Hastings,

The enacting clause of said bill was referred to the committee on Internal Improvements.

Memorial to Congress for the survey of a rail road route from Rockingham, having been read a second time, Mr. Summers moved that the House consider the same in committee of the whole, to which the House disagreed; and then,

On motion, adjourned.

Monday, December 31, 1838.

Mr. Temple from the committee on elections, according to instruction, reported bill No. 99, entitled A bill providing for and regulating general elections, which was, on motion, read a first time by its title, and the rule requiring the same to be printed suspended.

Mr. Price, from the committee on enrollments, reported as correctly engrossed, a memorial to Congress asking for an amendment of the Organic Law of the Territory; and bill No. 75, entitled An act concerning water crafts found adrift, &c.

Mr. Beeler, from the joint committee on enrollments reported the following entitled acts to have been presented to the Governor for his approval on the 29th instant:

An act concerning divorces.

An act to authorize Aaron Usher and Thomas M. Groom, to keep a ferry.

An act to regulate interest on money and to prevent usury; and

An act to punish the venders of unwholesome liquors and provisions.

Mr. Porter, from the special committee appointed to prepare a memorial to Congress for the survey of Skunk river, reported the same, which was read a first time, and is as follows:

To the Senate and House of Representatives of the United States in Congress assembled.

The Legislative Assembly, the Council and House of Representatives of the Territory of Iowa, respectfully represent to your honorable body, That we are of opinion that Skunk river can with but little expense be rendered navigable, and that the navigation of said river, would be of incalculable advantage to that portion of the Territory through which said river passes; we therefore respectfully ask, that in order to ascertain whether or not said river can be made navigable, that an appropriation be made at the present session of Congress, for the survey of said river, and in duty bound your memorialists will ever pray.

Mr. Price, from the select committee appointed for that purpose, reported bill No. 100, entitled A bill regulating mills and millers.

Mr. Hastings, from the select committee appointed for that purpose, reported bill No. 101.

Mr. Beeler, from the committee on enrollments, reported as correctly engrossed bill No. 70, entitled A bill to incorporate the Bloomington and Cedar river Canal company.

Mr. Hastings asked and obtained leave to introduce A bill for the improvement of the breed of Horses. Messrs Hastings, Price and Coop, were thereupon appointed a committee to prepare the said bill.

Mr. Hall asked leave to introduce a bill to establish a seminary of learning in Van Buren county. Leave was granted and Messrs. Hall, Frierson and Swan, were appointed a committee to prepare the same.

Mr. Beeler asked and obtained leave to introduce A bill to provide for the collection of debts, for the sale of improvements on government lands; and

A bill to authorize an interchange of statute laws with the different states and territories of the United States. Messrs. Beeler, Parker and Patterson, were then appointed a committee to prepare said bills.

Mr. Temple asked leave at a future day to introduce A bill confirming grants of property made for the encouragement of education and for other purposes. Leave was granted, and Messrs. Temple, Cox and Bailey, were appointed a committee to prepare said bill.

Mr. Hastings asked and obtained leave to introduce A bill to provide for the admission of attorneys and counsellors at law. Messrs. Hastings, Grimes and Nowlin, were appointed the committee to prepare the same.

On motion of Mr. Temple,

Bill No. 99, entitled A bill providing for and regulating general elections, was read a second time and considered in committee of the whole, Mr. Patterson in the chair. After some time the committee rose, reported progress and asked leave to sit again. Leave was granted.

The Speaker announced the following communication from the Governor of the Territory.

EXECUTIVE OFFICE, IOWA TERRITORY,
December 31st, 1838.

To the House of Representatives of the Legislative Assembly.

GENTLEMEN—I herewith return the bill to divide the county of Henry and establish the county of Jefferson. My objections to the bill in its present form are, 1st, that it extends into the Indian country, 2d, that it divides surveyed townships, which I think ought in all cases to be avoided. I would therefore recommend a modification of the boundaries so as to bound it by township lines, and the Indian boundary line. With these modifications the bill will meet with my cordial approval.

Very respectfully, your obedient servant,

ROBERT LUCAS.

The communication was then referred to the committee that introduced the bill referred to.

Bill No. 27, Council file, entitled An act concerning apprentices and servants, was taken up and read a first time.

Bill No. 94, H. R. file, entitled A bill to locate the seat of government of the Territory of Iowa, was read a second time and considered in committee of the whole, Mr. Parker in the chair, with instructions to the clerk to spread the minutes of the proceedings of said committee upon the journal.

Some disagreement having taken place as to the terms of said bill as originally adopted, Mr. Temple moved that the committee rise; to which the House disagreed.

Mr. Porter then moved that the 2d section of the bill be stricken out.

Mr. Wallace moved to amend the motion of Mr. Porter by also striking out the first section of said bill, after the enacting clause; which amendment was accepted, and the motion as amended was agreed to.

Mr. Porter then moved that the following be inserted in lieu of said first and second sections, viz:

That the seat of government of said Territory of Iowa, be and the same is hereby fixed and declared to be at the city of Burlington, in Des Moines county in said Territory, for the space of three years from the passage of this act.

SEC. 2. That at the expiration of three years from the passage hereof, the seat of government of said Territory, shall be removed to and permanently fixed at Mount Pleasant, in the county of Henry, in said Territory.

Mr. Taylor then moved to strike out Burlington in Des Moines county, and insert Fort Madison in Lee county. Not agreed to.

Mr. Frierson moved to strike out Mount Pleasant in Henry county, and insert Bloomington. Lost.

Mr. Nowlin moved to strike out the words three years; to which the committee disagreed.

The question was then put, shall the first section as amended be adopted? and decided in the affirmative.

The question being then upon the adoption of the substitute for the second section,

Mr. Hastings moved to strike out Mount Pleasant in Henry county, and insert Wyoming in Muscatine county. Lost.

Mr. Nowlin moved to strike out Mount Pleasant, and insert Burlington. Lost.

Mr. Swan moved to strike out Mount Pleasant, and insert Davenport. Lost.

Mr. Cox moved to strike out Mount Pleasant, and insert Black Hawk. Lost.

Mr. Roberts moved to strike out Mount Pleasant, and insert Rochester in Cedar county. Lost.

Mr. Nowlin moved to strike out Mount Pleasant, and insert Bellevue. Lost.

Mr. Frierson moved to strike out Mount Pleasant, and insert Napoleon in Johnson county. Lost.

Mr. Swan moved to strike out Mount Pleasant, and insert Du Buque. Lost.

Mr. Swan moved to strike out Mount Pleasant, and insert Rockingham. Lost.

Mr. Roberts moved to strike out Mount Pleasant, and insert Westport, Linn county. Lost.

Mr. Nowlin moved to strike out Mount Pleasant, and insert Keasauqua. Lost.

Mr. Cox moved that the committee rise. Lost.

Mr. Summers moved to strike out Mount Pleasant, and insert Parkhurst. Lost.

Mr. Nowlin moved to strike out Mount Pleasant and insert West Point. Lost.

Mr. Roberts moved to strike out Mount Pleasant, and insert Elizabeth in Cedar county. Lost.

Mr. Nowlin moved to strike out Mount Pleasant, and insert Peru. Lost.

Mr. Swan moved to strike out Mount Pleasant, and insert Upper Wapello. Lost.

Mr. Summers moved to strike out Mount Pleasant, and insert Elizabeth city. Lost.

Mr. Swan moved to strike out Mount Pleasant, and insert Lower Wapello. Lost.

Mr. Summers moved to strike out Mount Pleasant, and insert Buffalo. Lost.

Mr. Hastings moved to strike out Mount Pleasant, and insert Keokuk. Lost.

Mr. Summers moved to strike out Mount Pleasant, and insert Camanche. Lost.

Mr. Swan moved to strike out Mount Pleasant, and insert at any point that shall be designated by commissioners, appointed to locate the seat of government of Iowa. Lost.

Mr. Roberts moved that Mount Pleasant be stricken out, and Moscow inserted. Lost.

Mr. Nowlin moved that the words at Mount Pleasant, be stricken out, and the words, at a point to be agreed upon by three disinterested commissioners to be appointed by the Governor of the Territory inserted. Lost.

Mr. Nowlin moved that the committee rise. Lost.

Mr. Hastings moved that "Mount Pleasant" be stricken out and "Fredonia" inserted.

Mr. Nowlin moved to strike "Mount Pleasant," and insert New Mexico, in Du Buque county." Lost.

Mr. Nowlin moved that the committee rise. Lost.

Mr. Hastings moved to strike out "Mount Pleasant," and insert "Sippenamo in Johnson county." Lost.

Mr. Hastings moved that the committee rise. Lost.

The question was then put upon the adoption of the substitute for the second section offered by Mr. Porter, and decided in the affirmative.

Mr. Grimes moved to amend the bill by striking out the 3d, 4th, 5th and 6th sections of said bill and insert the following:

"Sec. 3. Be it enacted, That there shall be three commissioners elected by joint ballot of the Council and House of Representatives, whose duty it shall be to cause the necessary public buildings to be erected at the said town of Mount Pleasant for the accommodation

of the Legislative Assembly and other officers of the territorial government, without delay."

Mr. Taylor offered the the following substitute for said amendment:

"SEC. 3. That John Claypole of the county of Lee, M. D. Browning of the county of Des Moines, and B. F. Wallace of the county of Henry, be and they are hereby appointed commissioners, whose duty it shall be to lay out at least 320 acres of land immediately around the public square in said town of Mount Pleasant into lots, out lots, streets and alleys."

The amendment offered by Mr. Grimes, was adopted.

On motion of Mr. Porter,

The eighth section of the bill was also stricken out by the committee.

The committee then arose, reported the bill to the House, and asked its concurrence.

Mr. Nowlin moved that the House adjourn to 2 o'clock. The question being put, "will the House adjourn?" it was determined in the affirmative.

The yeas and nays being called for were as follow:

Yeas—Messrs. Bankson, Blair, Cox, Frierson, Hastings, Nowlin, Patterson, Roberts, Summers, Swan, Taylor, Thornton and Toole.—13.

Nays—Messrs. Bailey, Beeler, Brierly, Coop, Delashmutt, Grimes, Hall, Parker, Porter, Price, Temple and Wallace, Speaker—12.

2 O'CLOCK, P. M.

Mr. Porter moved that the report of the committee of the whole in relation to bill No. 94, H. R. file, entitled "A bill to locate the seat of government of the Territory of Iowa be concurred in; and pending the question of such concurrence,

Mr. Swan moved that the bill be recommitted. Lost.

Mr. Taylor then moved that "Burlington" be stricken from the first section of said bill and "Fort Madison" inserted in lieu thereof; which was rejected.

The yeas and nays being called for were as follow:

Yeas—Messrs. Bankson, Cox, Nowlin, Patterson, Roberts, Taylor and Toole—7.

Nays—Messrs. Bailey, Beeler, Blair, Brierly, Coop, Delashmutt, Frierson, Grimes, Hall, Hastings, Parker, Porter, Price, Summers, Swan, Temple, Thornton and Wallace, Speaker—18.

Mr. Coop called for the previous question. The question being then put, "shall the main question be now put?" it was determined in the negative.

The yeas and nays being called for were as follow:

Yeas—Messrs. Beeler, Brierly, Coop, Delashmutt, Grimes, Hall, Parker, Porter, Price, Temple and Wallace, Speaker—11.

Nays—Messrs. Bankson, Bailey, Blair, Cox, Frierson, Hastings, Nowlin, Patterson, Roberts, Summers, Swan, Taylor, Thornton and Toole—14.

Mr. Cox moved to amend the second section as follows: Strike out "Mount Pleasant" and insert, "Johnson, Linn and Cedar counties,

and that commissioners be appointed to locate the seat of government at the most eligible place in either of those counties."

The question of the adoption being put, it was determined in the negative.

The yeas and nays being called for were as follow:

Yeas—Messrs. Bankson, Blair, Cox, Frierson, Hastings, Nowlin, Roberts, Summers, Swan, Taylor and Toole—11.

Nays—Messrs. Bailey, Beeler, Brierly, Coop, Delashmutt, Grimes Hall, Patterson, Parker, Porter, Price, Temple, Thornton and Wallace, Speaker—14.

Mr. Hastings moved to strike out "Burlington" and insert "Bloomington."

The question being put "shall the bill be thus amended?" it was determined in the negative.

The yeas and nays being called for were as follow:

Yeas—Messrs. Bankson, Cox, Frierson, Hastings, Nowlin, Roberts, Swan, Taylor, Thornton and Toole—10.

Nays—Messrs. Bailey, Beeler, Blair, Coop, Delashmutt, Grimes, Hall, Patterson, Porter, Price, Summers, Temple and Wallace, Speaker—15.

Mr. Nowlin moved to amend the bill as follows:

Strike out all after the enacting clause, in the first section, and insert the following: "That the seat of government of the Territory of Iowa, be and the same is hereby located and established at the town of Burlington, in the county of Des Moines."

The question of the adoption of this amendment being put, it was determined in the negative.

The yeas and nays being called for, were as follow:

Yeas—Messrs. Bankson, Bailey, Beeler, Blair, Cox, Frierson, Hastings, Nowlin, Roberts, Swan, Thornton and Toole.—12.

Nays—Messrs. Brierly, Coop, Delashmutt, Grimes, Hall, Patterson, Parker, Porter, Price, Summers, Taylor, Temple and Wallace, Speaker—13.

Mr. Taylor moved that the 3d section of the bill to be stricken out and the following inserted.

SEC. 3. That——be and they are hereby appointed commissioners, whose duty it shall be to lay out at least 320 acres of land immediately around the public square in the said town of Mount Pleasant, into lots, out lots, streets and alleys; Provided such 320 acres of land shall not interfere with any pre-emption right now held. But such 320 acres shall be located on the nearest land to said public square, that is not held by pre-emption at this time.

The question upon the adoption of this substitute for said 3d section being put, it was determined in the negative.

The yeas and nays being called for, were as follow:

Yeas—Messrs. Frierson, Hastings, Nowlin, Roberts, Taylor, Thornton and Toole—7.

Nays—Messrs. Bankson, Bailey, Beeler, Blair, Brierly, Coop, Cox, Delashmutt, Grimes, Hall, Patterson, Parker, Porter, Price, Summers, Swan, Temple and Wallace, Speaker—18.

Mr. Taylor moved that the House reconsider its vote in relation

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to the amendment offered this afternoon by Mr. Nowlin, which was agreed to.

The question was then put upon the adoption of said amendment, and determined in the affirmative.

The yeas and nays being called for, were as follow:

Yeas—Messrs. Bankson, Bailey, Beeler, Blair, Cox, Frierson, Hall, Hastings, Nowlin, Roberts, Swan, Taylor, Thornton, and Toole.—14.

Nays—Messrs. Brierly, Coop, Delashmutt, Grimes, Patterson, Parker, Porter, Price, Summers, Temple and Wallace, Speaker—11.

On motion of Mr. Nowlin,

The remainder of said bill was stricken out.

Mr. Taylor then moved to strike out the enacting clause of the bill, which was disagreed to.

The yeas and nays being called for, were as follow:

Yeas—Messrs. Coop, Hastings, Patterson, Parker, Porter, Price, Summers, Taylor, Toole and Wallace, Speaker.—10.

Nays—Messrs. Bankson, Bailey, Beeler, Blair, Brierly, Cox, Delashmutt, Frierson, Grimes, Hall, Nowlin, Roberts, Swan, Temple and Thornton.—15.

Mr. Taylor then moved that said bill be committed to a select committee of one from each electoral district, which was agreed to.

The yeas and nays being called for, were as follow:

Yeas—Messrs. Bankson, Coop, Cox, Frierson, Patterson, Parker, Price, Roberts, Summers, Swan, Taylor, Thornton, Toole and Wallace, Speaker.—14.

Nays—Messrs. Bailey, Beeler, Blair, Brierly, Delashmutt, Grimes, Hall, Hastings, Nowlin, Porter and Temple.—11.

Messrs. Bankson, Brierly, Parker, Porter, Grimes, Summers, Toole and Roberts, were thereupon appointed said committee.

On motion, the House adjourned.

Tuesday, January 1, 1839.

Mr. Grimes presented the account of James Cameron, sheriff of Des Moines county, for ordering elections. Referred to the committee on expenditures.

The following message from the Council was received by Mr. Wallace, their Secretary:

Mr. Speaker,

I am instructed to inform the House of Representatives that the Council have passed the following entitled acts:

No. 35, Council file, entitled An act to provide for changing the venue in civil and criminal cases.

No. 36, Council file, entitled An act to authorize the appointment of public administrators, &c.

No. 63, H. R. file, entitled An act to authorise Wm. Meek and sons to erect a dam across the Des Moines river, with amendments. In all of which the concurrence of the House is requested.

The Council have also passed bills No. 59, H. R. file, entitled An act to provide for the partition of real property; and

No. 72, H. R. file, entitled A bill concerning grand and petit jurors, without amendment.

I am also directed to present for signature, bill, Council file, entitled An act to incorporate the city of Du Buque.

And then he withdrew.

The Speaker then signed the foregoing last named act.

Mr. Frierson offered the following preamble and resolutions which were adopted:

Whereas the country purchased of the Sac and Fox Indians in the month of October, 1837, is rapidly settling with a respectable and meritorious class of citizens, who are opening farms and making improvements of various kinds, which must necessarily be subject to be divided and otherwise injuriously affected by the lines of the public surveys, thereby occasioning much loss and ground of difficulties of a serious character, to the pioneers of a new country; therefore,

Be it resolved, by the Council and House of Representatives of the Territory of Iowa, that our Delegate in Congress be requested to solicit and use his best exertions, to obtain an appropriation for the survey of all the unsurveyed lands in the territory of Iowa, to which the Indian title has been extinguished.

Be it further resolved, that the Governor of the Territory be requested to forward three copies of these resolutions, one to our delegate in Congress, one to the Speaker of the House of Representatives, and one to the President of the United States.

Mr. Grimes offered the following:

Resolved, by the Council and House of Representatives of the Territory of Iowa, that the committee appointed under a joint resolution of both Houses, to repair to and investigate the affairs of the Miners' Bank of Du Buque be allowed the sum of one hundred and fifty dollars each for their services.

Mr. Bailey moved to amend the resolution by striking out the words 'and fifty.'

Mr. Taylor moved to lay the resolution on the table. Lost.

On motion of Mr. Grimes,

Ordered, That said resolution be referred to the committee on expenditures.

Mr. Temple, from the select committee appointed for that purpose, reported bill No. 102, entitled An act confirming grants of property made for the encouragement of education and other purposes.

Said bill was then read a first time, and the rule requiring bills to be printed previous to a second reading, suspended in reference to the same.

Mr. Price, from the committee on Enrolments, reported as correctly engrossed, a bill entitled An act for establishing courts of probate.

Mr. Price asked and obtained leave to introduce a bill to provide for the collection of demands growing out of contracts for the sale of improvements on public lands.

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Messrs. Price, Temple and Cox were appointed a committee to prepare the same.

Mr. Brierly asked and obtained leave to bring in a bill to authorize John Gains, Otho Rynolds, and Mark Aldrich to keep a ferry across the Mississippi at the mouth of the Des Moines at the Round Mound.

Messrs. Brierly, Blair and Toole, were appointed a committee to prepare the same.

Mr. Hastings, from the select committee to which was referred a bill authorising Benjamin Nye to erect a dam across Pine river, reported the same back to the House with an amendment.

Mr. Parker asked and obtained leave to bring in a bill to preserve good order in worshipping congregations and societies.

Messrs. Parker, Porter and Summers were appointed a committee to prepare said bill.

Mr. Nowlin, from the select committee appointed for that purpose, reported bill No. 103, to provide for the appointment of a territorial treasurer, and defining his duties; which was read a first time.

On motion of Mr. Hastings,

Ordered, that a committee of conference be appointed to act in conjunction with a like committee, in relation to a disagreement of the two houses, as to bill No. 23, Council file.

Messrs. Hastings, Roberts and Swan were appointed said committee.

Mr. Roberts asked and obtained leave to introduce a bill to authorize the arresting and securing of fugitives from justice.

Messrs. Roberts, Taylor and Hall were appointed a committee to prepare the bill.

Mr. Nowlin, from the committee on Enrolments, reported an act to authorize Ralph Letton to keep a ferry across the Mississippi river, at the town of Parkhurst. Said act was then signed by the Speaker, and the clerk directed to present it to the President of the Council for his signature.

The Speaker announced a communication from L. Judson, containing his account for furnishing maps, which was read and referred to the committee on expenditures.

Also a communication from the Hon. Charles Mason, enclosing a bill entitled an act in relation to proceedings in civil actions, and containing remarks in relation thereto; which was read, and referred with the bill, to the committee on the Judiciary.

Bill No. 97, H. R. file, entitled an act to regulate blacks and mulattoes, and to punish kidnappers of such persons, was read and considered in the committee of the whole, Mr. Porter in the chair. After a short time the committee rose, and reported the bill without amendment. The House concurred.

On motion of Mr. Cox,

Ordered, that said bill be recommitted to the committee by which it was reported.

Mr. Bankson from the select committee to which was yesterday referred bill No. 94, entitled a bill for the location of the seat of government of the territory of Iowa, reported said bill to the House.

with amendments; which bill and amendments were read and ordered to be considered in committee of the whole, Mr. Roberts in the chair. After some time the committee rose, reported the same to the House in the shape in which they were reported by the select committee, and asked the concurrence of the House therein.

The question being then put, "will the House concur in the report of the committee?" it was determined in the affirmative.

The yeas and nays being called for, were as follow:

Yeas—Messrs. Bailey, Beeler, Brierly, Coop, Delashmutt, Grimes, Hall, Parker, Porter, Price, Summers, Temple and Wallace, Speaker—13.

Nays—Messrs. Bankson, Blair, Cox, Frierson, Hastings, Nowlin, Roberts, Swan, Taylor, Thornton and Toole—11.

Mr. Taylor moved to strike out the first and second sections of said bill, and insert the following:

That the seat of government is hereby established at the city of Burlington, in the county of Des Moines.

The motion was disagreed to.

The yeas and nays being called for, were as follow:

Yeas—Messrs. Bankson, Blair, Cox, Frierson, Hastings, Nowlin, Roberts, Swan, Taylor, Thornton and Toole—11.

Nays—Messrs. Bailey, Beeler, Brierly, Coop, Delashmutt, Grimes, Hall, Parker, Porter, Price, Summers, Temple and Wallace, Speaker—13.

Mr. Swan moved to amend the bill by striking out all after the 1st section. The House disagreed to the amendment.

The yeas and nays being called for, were as follow:

Yeas—Messrs. Bankson, Blair, Cox, Frierson, Hastings, Nowlin, Roberts, Swan, Taylor, Thornton and Toole—11.

Nays—Messrs. Bailey, Beeler, Brierly, Coop, Delashmutt, Grimes, Hall, Parker, Porter, Price, Summers, Temple and Wallace, Speaker—13.

The question then recurred, "shall the bill be engrossed and read a third time?" the same was put and determined in the affirmative.

The yeas and nays being called for, were as follow:

Yeas—Messrs. Bailey, Beeler, Brierly, Coop, Delashmutt, Grimes, Hall, Parker, Porter, Price, Summers, Temple and Wallace, Speaker—13.

Nays—Messrs. Bankson, Blair, Cox, Frierson, Hastings, Nowlin, Roberts, Swan, Taylor, Thornton and Toole—11.

Bill No 27, Council file, entitled a bill concerning apprentices and servants, was read a second time, and considered in committee of the whole, Mr. Summers in the chair. The committee rose after a short time, and reported the bill without amendment. The House concurred in the report and ordered said bill to be engrossed for a third reading.

On motion of Mr. Swan,

Ordered, That the rules of the House be suspended, in order that a bill entitled, An act for the location of the seat of Government of the Territory of Iowa, may now be read a third time and put upon its passage:

Whereupon, said bill was read a third time, and the question "shall the bill pass?" being put, was decided in the affirmative.

The yeas and nays being called, were as follow:

Yeas—Messrs. Bailey, Beeler, Brierly, Coop, Delashmutt, Grimes, Hall, Parker, Porter, Price, Summers, Temple and Wallace, Speaker—13.

Nays—Messrs. Bankson, Blair, Cox, Frierson, Hastings, Nowlin, Roberts, Swan, Taylor, Thornton and Toole—11.

Mr. Nowlin moved to amend the title of the bill as follows:

"A bill to establish two seats of government and to squander the appropriation for erecting public buildings."

Mr. Grimes called for the previous question.

Mr. Taylor made a motion to adjourn, which was disagreed to.

The yeas and nays being called for, were as follow:

Yeas—Messrs. Bankson, Cox, Frierson, Hastings, Nowlin, Roberts, Swan, Taylor, Thornton and Toole—10.

Nays—Messrs. Bailey, Beeler, Blair, Brierly, Coop, Delashmutt, Grimes, Hall, Parker, Porter, Price, Summers, Temple and Wallace, Speaker—14.

Mr. Grimes called for the previous question.

Mr. Taylor made a motion to adjourn, which was not agreed to.

The yeas and nays being called for, were as follow:

Yeas—Messrs. Bankson, Cox, Frierson, Hastings, Nowlin, Roberts, Swan, Taylor, Thornton and Toole—10.

Nays—Messrs. Bailey, Beeler, Blair, Brierly, Coop, Delashmutt, Grimes, Hall, Parker, Porter, Price, Summers, Temple and Wallace, Speaker—14.

Mr. Grimes called for the previous question.

Mr. Taylor moved to adjourn, to which the House disagreed.

The yeas and nays being called for, were as follow:

Yeas—Messrs. Bankson, Cox, Hastings, Nowlin, Roberts, Swan, Taylor and Toole—8.

Nays—Messrs. Bailey, Beeler, Blair, Brierly, Coop, Delashmutt, Grimes, Hall, Parker, Porter, Price, Summers, Temple, Thornton and Wallace, Speaker—15.

Mr. Grimes withdrew his call for the previous question.

The question then being put, "shall the title of the bill be amended according to the motion of Mr. Nowlin?" it was determined in the negative.

The yeas and nays being called for, were as follow:

Yeas—Messrs. Cox, Hastings, Nowlin, Roberts, Taylor and Toole—6.

Nays—Messrs. Bankson, Bailey, Beeler, Blair, Brierly, Coop, Delashmutt, Grimes, Hall, Parker, Porter, Price, Summers, Swan, Temple, Thornton and Wallace, Speaker—17.

The title of said bill was then agreed to, and the same ordered to be sent to the Council for concurrence.

On motion of Mr. Porter,

The House adjourned until 2 o'clock, P M.

2 O'CLOCK, P. M.

On motion of Mr. Taylor,

Ordered, That in accordance with the motion of Mr. Patterson, of Friday last, laid on the table, and made the order for yesterday, by motion of Mr. Nowlin, the vote by which bill No. 67, H. R. file, entitled a bill to establish the boundaries of Lee county, was made the order of the day for Friday next, be reconsidered, so that said bill may be now acted upon.

The question then being upon the concurrence of the House in the report of the committee of the whole which had previously had said bill under consideration, the same was put and determined in the affirmative.

The yeas and nays being called for, were as follow:

Yeas—Messrs. Bankson, Bailey, Blair, Brierly, Coop, Cox, Hastings, Nowlin, Parker, Price, Summers, Swan, Taylor, Thornton, Toole and Wallace, Speaker—16.

Nays—Messrs. Beeler, Delashmutt, Frierson, Grimes, Hall and Temple—6.

On motion of Mr. Taylor,

Ordered, That the 2d section of said bill be stricken out, and the following inserted in lieu thereof:

"Sec. 2. And be it further enacted, That it shall be lawful for the sheriff of Des Moines county to collect the tax due for the present year from all persons detached from the county of Des Moines and attached to the county of Lee, by the provisions of this act; and all laws coming within the purview and meaning of this law be and the same are hereby repealed."

The question then being "shall the bill be engrossed and read a third time?" it was determined in the affirmative.

The yeas and nays being called for, were as follow:

Yeas—Messrs. Bankson, Bailey, Blair, Brierly, Coop, Cox, Hastings, Nowlin, Parker, Price, Summers, Swan, Taylor, Thornton, Toole and Wallace, Speaker—16.

Nays—Messrs. Beeler, Delashmutt, Frierson, Grimes, Hall, Roberts and Temple—7.

The bill was read a third time, and the question "shall the bill pass?" being put, was determined in the affirmative.

The yeas and nays being called for, were as follow:

Yeas—Messrs. Bankson, Bailey, Blair, Brierly, Coop, Cox, Hastings, Nowlin, Parker, Price, Summers, Swan, Taylor, Thornton, Toole and Wallace, Speaker—16.

Nays—Messrs. Beeler, Delashmutt, Frierson, Grimes, Hall, Roberts and Temple—7.

The title of the bill was then agreed to, and the clerk directed to present the same to the Council for their concurrence.

Mr. Nowlin from the committee on the Judiciary to which was referred the communication of the Hon. Charles Mason, enclosing bill No. 104, entitled An act relative to proceedings in civil cases, reported the same without amendment.

The said bill was then read a first time by its title, and James G. Edwards ordered to print the same.

Mr. Nowlin asked to be discharged from the committee on expenditures to which was referred the resolution paying the expenses incurred by the joint committee on the part of the House, appointed to investigate the condition and affairs of the Miners' Bank of Du Buque.

The House granted the request and ordered that Mr. Bankson be placed upon said committee in lieu of Mr. Nowlin.

Memorial to Congress for the survey of a rail road route leading westward from the town of Rockingham, was read and considered in committee of the whole, Mr. Swan in the chair. After some time the committee rose and reported the memorial with amendments. The House concurred in the report, and ordered that the memorial be engrossed for a third reading.

On motion of Mr. Nowlin,

Ordered, that the rule of the House prescribing the order of its proceedings, be suspended so as to permit the petition of James Davis and others, praying for the passage of a law authorizing a district court to be holden in said county forthwith, for the trial of Joseph Page, an alleged vender of counterfeit money, to be presented.

The petition was accordingly presented, and referred to the committee on the Judiciary.

Bill No. 99, H. R. file, entitled an act providing for, and regulating general elections in this territory, was again considered in committee of the whole, Mr. Hall in the Chair. After some time the committee rose, and reported the bill with amendments. The report was received, and the amendments adopted. The bill was then ordered to be engrossed for a third reading.

On motion, the House adjourned.

Wednesday, January 2, 1839.

Mr. Roberts presented the petition of sundry inhabitants of Linn county, praying for the organization of said county.

On motion, Ordered that said petition be referred to the following select committee: Messrs. Roberts, Taylor, Nowlin, Summers and Brierly.

Mr. Frierson presented a remonstrance of citizens of Muscatine county, praying that no part of said county be attached to the county of Scott; which was referred to the committee on townships and county boundaries.

Mr. Hastings presented the petition of James Davis and other inhabitants of the county of Muscatine, praying for the passage of a law at the present session providing for the sale of lands belonging to said county.

Mr. Frierson presented a remonstrance of sundry other citizens of said county of Muscatine on the same subject. Which petition and remonstrance were referred to a select committee consisting of Messrs. Hastings, Parker, Frierson, Cox and Toole.

Mr. Hall presented a petition of William Duncan and others praying for the passage of a law authorizing said Wm. Duncan and his associates to construct a dam across the Des Moines river for hydraulic purposes, at the most suitable point on the rapids of said river.

Said petition was, on motion, referred to a select committee composed of Messrs. Hall, Bailey, Delashmutt, Price and Patterson.

On motion of Mr. Cox,

Resolved, That the committee on corporations be instructed to bring in A bill defining the duties of auctioneers; also, a bill for the appointment of inspectors in each county of this Territory.

Mr. Grimes, from the committee on the judiciary, to which was yesterday referred the petition of James Davis and others, reported bill No. 105, entitled An act authorizing a special term of the district court in Muscatine county. The bill was read a first time; when on motion, the rule requiring bills to be printed was suspended in reference to the same, and the bill read a second time and considered in committee of the whole, Mr. Taylor in the chair. After some time the committee rose and reported said bill without amendment. The House concurred, and ordered the 16th standing rule to be suspended so that said bill be read a third time now. The bill was then read a third time, passed, its title agreed to; and,

Ordered to be sent to the Council for concurrence.

Mr. Patterson from the committee on expenditures reported,

That said committee would recommend that the Judiciary committee report a bill authorizing the account of James Cameron of \$100, for ordering a general and special election in the county of Des Moines, to be paid; also,

That the following resolution be adopted, viz: Resolved, By the Council and House of Representatives of the Territory of Iowa, that the committee appointed under a joint resolution of both Houses to repair to the Miners' Bank of Du Buque and investigate the affairs of the same, be allowed the sum of one hundred dollars each. The resolution was adopted, ordered to be sent to the Council for concurrence, and the judiciary committee instructed to report a bill providing for the payment of sheriffs generally for ordering elections.

Mr. Frierson, from the select committee to which had been twice recommitted bill No. 97, H. R. file, entitled A bill to regulate blacks and mulattoes &c., reported the same back to the House with amendments.

Mr. Grimes, from the committee on the Judiciary reported bill No. 106, entitled An act to incorporate the Burlington steam mill company, which was read a first time, and the rule requiring the same to be printed suspended.

Mr. Bailey, from the committee on schools to which was some time since referred bill No. 66, H. R. file, entitled An act to establish the several seminaries herein named, reported the same back to the House with amendments.

On motion, the House adjourned until 2 o'clock, P. M.

2 O'CLOCK, P. M.

On motion of Mr. Summers,

Leave of absence was granted to Mr. Burchard, indefinitely, on account of indisposition.

Bill No. 35, Council file, entitled An act to provide for changing the venue in civil and criminal proceedings, was taken up, and read a first time.

The concurrence of the House in the report of the committee of the whole, which had had under consideration bill No. 35, H. R. file, entitled A bill to authorize Wm. Hogan to keep a ferry across the Mississippi river at the town of Lyons, having been postponed until to day,

On motion of Mr. Summers,

Ordered, That said bill be taken up; and the question of the concurrence of the House in said report being put, was determined in the affirmative.

On motion of Mr. Grimes,

Ordered, That the rule of the House in reference to said bill be suspended, and the same be read a third time, and put upon its passage.

Mr. Summers moved for a call of the House, which was had, and the sergeant-at-arms despatched for absent members.

On motion of Mr. Grimes,

Ordered, That the further call be dispensed with.

The bill was then read a third time, and the question, "shall the bill pass?" being put, was determined in the negative.

The yeas and nays being called for were as follow:

Yeas—Messrs. Brierly, Cox, Porter, Price, Summers and Wallace, Speaker—6.

Nays—Messrs. Bankson, Beeler, Blair, Frierson, Grimes, Hall, Hastings, Nowlin, Roberts, Swan, Taylor, Temple, Thornton and Tockle—14.

Bill No. 77, H. R. file, entitled A bill to authorize Benjamin Nye, to build a dam across Pine river, was read a second time and considered in committee of the whole, Mr. Temple in the chair. After a short time the committee rose, reported the same to the House without amendment. The House concurred in the report of the committee and ordered the bill to be engrossed for a third reading.

Mr. Price from the committee appointed to prepare a bill to provide for the collection of demands growing out of contracts for the sale of improvements on public lands, reported the same, No. 107.

Bill No. 79, H. R. file, entitled An act relative to wills and testaments, executors, and administrators, and the settlement of estates, was read a second time and considered in committee of the whole, Mr. Bankson in the chair. After a short time the committee rose, reported the bill without amendment, and asked and obtained the concurrence of the House in their report.

On motion of Mr. Nowlin,

Ordered, That the rules of the House be suspended in relation to said bill; it was then read a third time, passed and the title agreed to.

Ordered, That said bill be sent to the Council for concurrence.

Bill No. 102, H. R. file, entitled A bill confirming grants of property made for the encouragement of education, and for other purposes, was taken up, read a second time, and considered in committee of the whole, Mr. Bailey in the chair. After some time the committee rose, and reported the bill with amendments, in which the House concurred.

The bill was then ordered to be engrossed for a third reading.

Memorial to Congress for the survey of Skunk river, was read and considered in committee of the whole, Mr. Beeler in the chair. The committee rose and reported the memorial to the House without amendment.

The report was received and the memorial ordered to be engrossed for a third reading.

Bill No. 70, H. R. file, entitled A bill to incorporate the Bloomington and Cedar river canal company, was then taken up, read a third time, passed, and the title thereof agreed to.

Ordered, That said bill be sent to the Council for concurrence.

Bill No. 71, H. R. file, was also read a third time; and the question "shall the bill pass?" being put, it was determined in the affirmative.

The yeas and nays being called for, were as follow:

Yeas—Messrs. Bailey, Beeler, Blair, Brierly, Coop, Grimes, Hall, Hastings, Nowlin, Parker, Price, Summers, Temple, and Toole.—14.

Nays—Messrs. Bankson, Cox, Delashmutt, Frierson, Roberts, Swan, Thornton and Wallace, Speaker—8.

The title thereof was then agreed to, and the House ordered that the bill be sent to the Council for concurrence.

Bill No. 75, H. R. file, entitled An act concerning water crafts found adrift, &c. was taken up, read a third time and passed with the title amended.

Ordered, That the same be sent to the Council for concurrence.

Bill No. 78, H. R. file, entitled An act for the establishment of courts of probate, was then read a third time.

Mr. Beeler offered an amendment which was refused, the House not consenting unanimously thereto.

Mr. Grimes moved that the bill be re-committed, to which the House disagreed.

Mr. Bailey also offered an amendment which was likewise refused. The bill then passed, the title was agreed to, and the clerk directed to present the same to the Council for its concurrence.

Bill No. 7, Council file, entitled An act relating to the office of Recorder of Deeds, was taken up, read a third time, passed, and the title agreed to.

Ordered, That the Council be informed.

Bill No. 24, Council file, entitled A bill for the prevention of frauds, was read a third time; and,

On motion of Mr. Grimes,

Ordered, to be committed to the committee on the judiciary.

Bill No. 27, Council file, was read a third time, passed, and the title agreed to.

Ordered, That the Council be informed.

Bill No. 26, Council file, entitled An act to establish the boundaries of Louisa county and for other purposes, was read a third time.

Mr. Blair then moved that said bill lie on the table until the 4th of March next, which was disagreed to.

The yeas and nays being called for, were as follow:

Yeas—Messrs. Beeler, Blair, Coop, Delashmutt, Grimes, Hall, Nowlin, Parker, Summers, Temple and Wallace Speaker.—11.

Nays—Messrs. Bankson, Bailey, Brierly, Cox, Frierson, Hastings, Price, Roberts, Swan, Thornton and Toole.—11.

Mr. Grimes then moved that the bill be postponed indefinitely.

Mr. Cox moved to amend the motion of Mr. Grimes so that the bill lie on the table subject to the order of the House. Lost.

A call of the House was then had, and absent members sent for.

On motion of Mr. Hastings,

Ordered, That the further call of the House be dispensed with.

The question then recurring, "shall the bill be indefinitely postponed?" the same was put and determined in the affirmative.

The yeas and nays being called for, were as follow:

Yeas—Messrs. Bankson, Beeler, Blair, Brierly, Coop, Delashmutt, Grimes, Hall, Nowlin, Roberts, Summers, Swan, Temple and Wallace, Speaker.—14.

Nays—Messrs. Bailey, Cox, Frierson, Hastings, Parker, Price, Thornton and Toole.—8.

And then, On motion, the House adjourned to 7 o'clock, P. M.

7 O'CLOCK, P. M.

Bill No. 98, H. R. file, entitled An act providing for the assessment and collection of county revenue, was taken up, read a second time and considered in committee of the whole, Mr. Hall in the chair. After some time the committee rose, reported the bill with amendments, in which the House concurred.

Mr. Grimes offered the following amendment to the bill: after the word "per annum" at the end of the first section, add the following:

"Provided always, that when any tavern keeper retails spirituous liquors, he shall pay in addition to his tavern license the sum above required to be paid by retailers of spirituous liquors."

The question being put upon the adoption of the amendment it was determined in the affirmative.

The yeas and nays being called for, were as follow:

Yeas—Messrs. Bankson, Beeler, Brierly, Grimes, Nowlin, Price, Roberts, Swan, Taylor, Temple, Toole and Wallace, Speaker.—12.

Nays—Messrs. Bailey, Coop, Delashmutt, Frierson, Hall, Hastings, Parker, Porter, Summers and Thornton.—10.

Mr. Bailey then moved that the words "beer, ale and cider," be stricken from the first section of said bill and that said first section be further amended by striking out the words "one hundred dollars" and inserting in lieu thereof, the following: "twenty-five dollars, nor more than one hundred dollars, to be discretionary with the board of county commissioners."

Mr. Summers moved that the question of the adoption of the amendment be divided as follows:

First, upon striking out the words "beer, ale and cider;" next, upon striking out "one hundred dollars," and then upon filling the blank; agreed to.

Ordered, That the words "beer, ale and cider" be stricken out.

The question then recurring upon striking out the words "one hundred dollars," it was put, and determined in the affirmative.

The yeas and nays being called for, were as follow:

Yeas—Messrs. Bailey, Brierly, Coop. Frierson, Hall, Hastings, Parker, Porter, Price, Thornton, Toole and Wallace, Speaker.—12.

Nays—Messrs. Bankson, Beeler, Delashmutt, Grimes, Nowlin, Roberts, Summers, Swan, Taylor and Temple.—10.

Mr. Grimes moved to amend the third division of the amendment, by inserting in lieu of the same, the words "one hundred and five dollars."

Mr. Swan then moved to amend said amendment to the amendment, by inserting in lieu thereof, the words "one hundred and fifty dollars."

And pending the question of the adoption of the amendment to the amendment to the amendment,

On motion of Mr. Grimes,

Ordered, That said bill lie on the table, subject to the order of the House.

Mr. Swan from the committee on enrollments, reported the following entitled acts to have been correctly enrolled, viz:

An act to prevent disasters on steam boats, &c.

An act regulating weights and measures.

An act regulating criminal proceedings; and,

An act relating to interest on notes, bonds, and other instruments in writing.

Mr. Nowlin, from the same committee reported the following to be correctly enrolled, viz:

An act to provide for the partition of real property; and,

An act concerning grand and petit jurors.

Said acts were then signed by the Speaker and the Clerk directed to present them to the President of the Council for his signature.

Bill No. 66, H. R. file, entitled An act to establish the several seminaries herein named, as amended by the committee on schools, was read and considered in committee of the whole, Mr. Brierly in the chair. After some time, the committee rose and reported the bill with amendments, in which the House concurred.

On motion of Mr. Bailey,

Ordered, That after the words, "style of" wherever they occur in the bill, the word "seminary" be stricken out, and the word "academy" inserted in lieu thereof.

The bill was then ordered to be engrossed for a third reading.

Mr. Grimes, from the committee on the judiciary, reported bill No. 107, entitled A bill to repeal the half breed law, which was read a first time, and on motion,

Ordered to lie on the table until Monday next.

Thursday, January 3, 1839.

Mr. Summers, presented the petition of H. E. W. East, praying to be divorced from his wife Sarah East. Referred to the committee on the judiciary.

Mr. Hastings presented the petition of several citizens of Muscatine county, praying that a law be passed authorizing the sale of lands now belonging to said county. Referred to the same committee to which was referred a similar petition on yesterday.

Mr. Beeler, from the committee on enrollments reported as correctly engrossed, a bill confirming grants of property made for the encouragement of education and for other purposes; and a memorial to Congress for an appropriation for the survey of Skunk river.

Mr. Price from the same committee reported a memorial to Congress on the subject of a rail road from Rockingham, as correctly engrossed.

Mr. Nowlin, from the same committee reported as correctly enrolled, an act to organize, discipline and govern the militia of this Territory.

On motion of Mr. Grimes,

Resolved, By the Council and House of Representatives, that the Secretary of the Territory, be instructed to procure all the memorials adopted, by this Legislative Assembly to be copied and copies of each forwarded to the President of the United States, Secretary of State and our delegate in Congress.

Mr. Beeler offered the following:

Resolved By the Council and House of Representatives of the Territory of Iowa, that deeming the subject of education one of the most important which can be presented to the people, or the Legislative Assembly of this Territory, as regards the judicious arrangement of a school system, upon which will depend the moral, intellectual, social, and political condition of our highly favored country, and believing that a system of common schools cannot be successfully acted upon without more accurate information than is now in the possession of the legislative department of our Territory, the following persons be, and they are, hereby respectfully requested to collect such information as to them may seem most practicable and expedient, to wit: The Governor and Secretary of the Territory, Charles Mason, Joseph Williams, T. S. Wilson, W. W. Chapman, and P. H. Eugle, with the honorable J. B. Browne, President of the Council, and W. H. Wallace, Speaker of the House of Representatives.

Resolved, That the gentlemen aforesaid are hereby requested to address letters to the Governors of the several states, in which systems of education have been adopted by state authority, to the Presidents of Colleges throughout the United States, and to literary gentlemen and others conversant with the subject, for the purpose of obtaining exact information as to the best mode of tuition existing in the schools and institutions of learning in the Union, particularly in relation to the organization of such institutions, their cost, the amount and character of instruction, the relative advantages of different systems, and the amount and kind of legislative patronage

which has been extend to them, and of procuring authentic copies of statutes, charters, and other public documents, which relate to the subject.

On motion of Mr. Taylor,

Ordered, That the following names be added to the first resolution, viz: "S. C. Hastings, George H. Beeler and David Rorer."

On motion of Mr. Swan,

Ordered, That the name of "John King" be likewise inserted.

Mr. Grimes moved that all the names after that of the Speaker of the House be stricken out. Agreed to.

On motion of Mr. Taylor,

Ordered, That the said resolutions be referred to the committee on schools.

Mr. Hall, from the select committee appointed for that purpose, reported bill No. 108, An act to incorporate the Des Moines mill company and for other purposes. Read a first time.

Mr. Roberts, from a select committee, reported bill No. 109, entitled A bill to organize the county of Linn and locate the seat of justice thereof; which was read a first time.

Mr. Coop from the select committee to which had been referred an act to divide the county of Henry, and establish the county of Jefferson, together with the message of the Executive in relation thereto, reported said bill back to the House with amendments.

Mr. Brierly from the committee appointed for that purpose, reported bill No. 110, entitled A bill to authorize John Gaines, Otis Reynolds and Mark Aldrich, to keep a ferry at the mouth of Des Moines river. Read a first time.

Mr. Swan from the committee on corporations, to whom was referred the petition of Charles Swan, and other citizens of the town of Charlestown, in the county of Jackson, praying for a charter for a bank at said town made report,

That, it is inexpedient to grant said charter; and your committee would further report, That in the opinion of the committee a charter at this time with banking privileges would be not only inexpedient but impolitic and uncalled for by the citizens of the Territory of Iowa.

Mr. Hastings from the select committee, appointed for that purpose, reported bill No. 111, entitled, A bill for the improvement of the breed of horses. Said bill was read a first time by sections, the rule requiring the same to be printed suspended, and the bill read a second time by its title, and considered in committee of the whole, Mr. Coop in the chair. After some time the committee rose and reported the bill with amendments in which the House concurred.

The bill was then ordered to be engrossed for a third reading.

The question pending at the last adjournment of the House being upon the amendment offered by Mr. Swan to an amendment offered by Mr. Grimes, to an amendment offered by Mr. Bailey, to bill No. 98, H. R. file, entitled An act for assessing and collecting county revenue, the same was put and determined in the negative.

The yeas and nays being called for were as follow:

Yeas—Messrs. Bankson, Beeler, Blair, Cox, Frierson, Nowlin and Swan.—7.

Nays—Messrs. Bailey, Brierly, Coop, Delashmutt, Grimes, Hall, Hastings, Parker, Porter, Price, Roberts, Summers, Taylor, Temple, Thornton, Toole and Wallace, Speaker—17.

Mr. Grimes withdrew his amendment to the original amendment, when Mr. Taylor moved to amend the same by inserting "ninety-nine dollars" in lieu thereof.

The question being put, "shall the amendment offered by Mr. Taylor to the amendment be adopted?" it was determined in the negative.

The yeas and nays being called for were as follow:

Yeas—Messrs. Bankson, Beeler, Blair, Cox, Frierson, Grimes, Nowlin, Roberts, Summers, Swan, Taylor and Temple.—12.

Nays—Messrs. Bailey, Brierly, Coop, Delashmutt, Hall, Hastings, Parker, Porter, Price, Thornton, Toole and Wallace, Speaker.—12.

The Secretary of the Council being introduced, returned bill No. 94, H. R. file, entitled A bill to locate the seat of government of the Territory of Iowa, with amendments made to the same, in which he asked the concurrence of the House, and then withdrew.

Sundry other propositions being made to fill the blank in said bill, No. 96, to neither of which could the House agree.

On motion of Mr. Temple,

Ordered, That said bill be recommitted.

On motion, the House adjourned until 2 o'clock, P. M.

2 O'CLOCK, P. M.

Mr. Toole, from the committee on enrollments reported as correctly engrossed the following entitled bills:

A bill to authoize Benjamin Nye to erect a dam across Pine river;

A bill concerning costs and fees and;

Mr. Swan, from the committee on enrollments reported the following acts to have been this day presented to the Governor for his approval, viz:

An act to prevent the selling of ardent spirits to Indians.

An act for the relief of securities of persons charged with criminal offences; also,

A memorial to Congress for an amendment to the organic law.

On motion of Mr. Nowlin,

Ordered, That bill No. 94, H. R. file, entitled A bill to locate the seat of government of the Territory of Iowa, as amended by the Council be taken up and read. When,

On motion of Mr. Taylor,

Ordered, That said bill be further amended by inserting between the word "street" and the word "and" in the 6th line of the 5th section of the bill, the word "squares;" and that the 7th section of the same be also amended by adding the words "and for other purposes."

Mr. Swan, moved that the House now concur in all the other amendments made by the Council to said bill.

On motion, ordered, that a call of the House be had, and the sergeant-at-arms sent for absent members.

The absent members appearing, the question was put, will the House concur in the other amendments to said bill? and decided in the affirmative.

The yeas and nays being called for, were as follow:

Yeas—Messrs. Bankson, Beeler, Blair, Cox, Frierson, Hastings, Nowlin, Roberts, Summers, Swan, Taylor, Thornton and Toole.—13.

Nays—Messrs. Bailey, Brierly, Coop, Delashmutt, Grimes, Hall, Patterson, Parker, Porter, Price, Temple and Wallace, Speaker—12.

Ordered, That the Council be informed of amendments made to same.

Bill No. 107, was then taken up, and read a first time by its title.

On motion of Mr. Nowlin,

Ordered, That bills reported and read a first time on to day, be printed by James G. Edwards.

Bill No. 35, Council file, entitled An act to provide for changing the venue in civil and criminal cases, was read a second time and considered in committee of the whole, Mr. Cox in the chair. After some time, the committee rose and reported the bill to the House without amendment. The House concurred in the report, and

Ordered, That the bill be engrossed for a third reading.

On motion, the House adjourned.

Friday, January 4, 1839.

Mr. Bailey, from the committee on schools, to which was yesterday referred resolutions on the subject of obtaining information in relation to a system of common schools, reported the same back to the House with amendments; which were read.

On motion, ordered, that said resolutions as amended be adopted.

Mr. Hastings, from the committee of conference appointed to act in conjunction with a similar committee on the part of the Council, in relation to a disagreement of the two Houses in regard to amendments made to bill No. 33, H. R. file, reported that the joint committee had agreed to adopt said amendments.

The report was received, and the amendment accordingly adopted.

Mr. Paterson from the committee on expenditures to which was referred the account of L. Judson, made report, and recommended the adoption of the following:

Resolved, That L. Judson, Esq. be allowed the sum of two hundred and seventy dollars, for sixty maps of the territory of Iowa furnished this House.

The report was received, and the resolution adopted.

Mr. Nowlin, from the committee on enrolments, reported An act to authorize Ralph Letton to establish and keep a ferry across the

Mississippi river at the town of Parkhurst; "An act to incorporate the city of Du Buque;" and several joint resolutions, to have been yesterday presented to the governor for his approval.

Mr. Parker, from the select committee appointed for that purpose, reported bill No. 112, entitled 'A bill to preserve good order in all worshipping congregations and societies,' which was read a first time.

Bill No. 80, H. R. file, entitled a bill providing for the appointment of district prosecutors, was read a second time, and considered in committee of the whole, Mr. Delashmutt, in the chair. After some time the committee rose and reported the bill without amendment. The House concurred in the report of the committee, and

Ordered the bill to be engrossed and read a third time.

Bill No. 36, Council file, entitled A bill to authorize the appointment of public administrators, and defining their duties, was taken up, read and considered in committee of the whole, Mr. Frierson in the chair. After a short time the committee rose and reported the bill with an amendment, in which the House concurred, and

Ordered, That said bill be engrossed for a third reading.

The following message from the Council was received by their Secretary, Mr. Wallace:

Mr. Speaker,—

I am instructed to inform the House of Representatives, that the Council have concurred in the amendments made by the House to the amendments of the Council, to bill No. 94, H. R. file, entitled a bill to locate the seat of Government of the territory of Iowa.

I am also directed to present for your signature, bills, Council file,

An act to organize, discipline, and govern the militia of this territory; and

An act relative to promissory notes, bonds, due bills, and other instruments of writing.

I also herewith return sundry bills of the House, which have been signed by the President of the Council.

And then he withdrew.

On motion, bill No. 23, H. R. file, entitled "a bill to divide the county of Henry, and to establish the county of Jefferson," as amended by the select committee, who yesterday reported the same, was read and considered in committee of the whole, Mr. Grimes in the chair. The committee rose, after a short time, and reported said bill and amendments without amendment.

The question being put, "will the House concur in the report of the committee?" it was determined in the affirmative.

The yeas and nays being called for, were as follow:

Yeas—Messrs. Bankson, Bailey, Beeler, Blair, Brierly, Coop, Cox, Delashmutt, Frierson, Grimes, Hastings, Nowlin, Patterson, Parker, Price, Summers, Taylor, Temple and Thornton—19.

Nays—Messrs. Hall, Porter, Roberts and Toole—4.

Said bill was then ordered to be engrossed for a third reading.

Bill No. 97, H. R. file, entitled "a bill regulating blacks and mulattoes, and to punish the kidnappers of such persons," was read a second time and taken under consideration in committee of the whole, Mr. Hall in the chair. After some time spent therein, the

committee rose, and reported said bill with amendments, in which the House concurred.

The bill was then ordered to be engrossed for a third reading.

Mr. Frierson moved that bill No. 74, H. R. file, entitled "a bill providing for the organization of the county of Clinton," be taken from the table; to which the House disagreed.

The House then resolved into a committee of the whole, for the consideration of bill No. 104, H. R. file, entitled a bill regulating proceedings in civil cases, Mr. Hastings in the chair. After some time the committee rose, reported that it had made some progress, and asked leave to sit again. Leave was granted, and

On motion, the House adjourned to 2 o'clock, P. M.

2 O'CLOCK, P. M.

The Speaker announced a communication from his Excellency the Governor of the Territory, which was read, and is as follows, to wit:

EXECUTIVE DEPARTMENT, IOWA TERRITORY,
January 4, 1839.

To the House of Representatives of the Legislative Assembly.

Gentlemen—There was presented to me for my consideration a resolution in the following words:

"Resolved, by the Council and House of Representatives of the Territory of Iowa, That when an act is presented to the Governor for his approval, he shall, within a reasonable time thereafter, make known to the House in which said act may have originated of his approval thereof; or, if not approved of, the act shall be returned, with his objections thereto.

(Signed)

W. H. WALLACE, Speaker H. R.
J. B. BROWNE, Pres't. of Council."

I see no place in the organic law, that vests the Council and House of Representatives with the right to dictate to the Executive in the discharge of his official duties. I also, received another resolution in the following words:

"Resolved, by the Council and House of Representatives of the Territory of Iowa, That the Postmaster, at Davenport, Scott county, be and he is hereby authorized to have the mail from Davenport to Du Buque conveyed in two horse post coaches, twice a week during the present session of this legislative assembly, and that the Post Master General of the United States be memorialized by the legislative assembly to allow and pay the extra expenses that may be incurred under this resolution.

(Signed)

W. H. WALLACE, Speaker H. R.
J. B. BROWNE, Pres't. of Council."

In this resolution the Council and House of Representatives, have, in my opinion, assumed powers that can only be exercised by the Congress of the United States, and the Post Master General under the laws of the United States.

Both resolutions are herewith returned without my approval.

Respectfully, your ob't servant,

ROBERT LUCAS

On motion of Mr. Grimes,

Ordered, That a standing committee on Vetoes be appointed.

Whereupon, the chair appointed Messrs. Grimes, Taylor, Swan, Bailey and Summers said committee.

On motion of Mr. Hastings,

Ordered that the foregoing communication from the Executive be referred to the committee on vetoes.

Bill No. 104, H. R. file, entitled a bill regulating proceedings in civil cases, was again considered in committee of the whole, Mr. Hastings in the chair. The committee rose, after some time, reported progress, and asked and obtained leave to sit again.

Bill No. 106, H. R. file, entitled a bill to incorporate the Burlington steam mill company, was read a second time and considered in committee of the whole, Mr. Patterson in the chair. The committee rose after a short time and reported the bill without amendment. The House concurred in the report, and ordered that the bill be engrossed for a third reading.

Mr. Nowlin, from the committee on enrolments, reported

"An act to locate the seat of government of the territory of Iowa," as correctly enrolled. Said act was then signed by the Speaker and the clerk directed to present the same to the President of the Council for his signature.

Memorials to Congress for the survey of Skunk river, and of a rail road route from Rockingham, were then severally read a third time and passed.

Bills, H. R. file, entitled as follows, viz:

No. 77, a bill to authorize Benjamin Nye to build a dam across Pine river;

No. 83, A bill concerning costs and fees; and

No. 102, A bill confirming grants of property made for the encouragement of education and for other purposes, were then severally read a third time, passed, and the titles agreed to.

Ordered, That they be sent to the Council for concurrence.

Bill No. 35, Council file, entitled, an act to provide for changing the venue in civil and criminal cases, was also read a third time, passed, and the title agreed to.

Ordered, that the council be informed.

The amendments made by the Council to bill No. 63, H. R. file, entitled an act to authorize Wm. Meek and Sons to erect a dam across the Des Moines river, were then read and concurred in.

Mr. Grimes offered the following:

Resolved, That the Secretary of the Territory of Iowa be authorised to contract with Leander Judson, for the delivery of a sufficient number of his maps of the entire territories of Wisconsin and Iowa, to be distributed between the different offices and officers of said territory; and that he be instructed to advance one half of the amount to said Judson, to enable him to proceed immediately to Cincinnati to have them printed, put up, and delivered, as soon as practicable.

On motion of Mr. Cox,
Ordered, that said resolution be laid on the table.
On motion, the House adjourned.

Saturday, January 5, 1839.

Mr. Roberts presented as tatement of the proceedings of a meeting of citizens of Jones county, on the subject of the organization of said county and the mode of locating the seat of justice thereof; which was, on motion, referred to a select committee. Messrs. Roberts, Parker, Thornton, Taylor and Hastings, were appointed said committee.

On motion of Mr. Roberts,

Resolved, That the committee on roads and highways, be instructed to enquire into the expediency of establishing a territorial road from Rochester in Cedar county to the county seat of Linn county.

On motion of Mr. Bankson,

Resolved, That a select committee of one from each electoral district be appointed, and that said committee be instructed to enquire into the expediency of apportioning the representation of this Territory in the Legislative Assembly, among the several counties therein, and that said committee have leave to report by bill or otherwise.

The chair thereupon appointed Messrs. Swan, Roberts, Summers, Thornton, Grimes, Porter, Price and Hall, said committee.

Mr. Bailey asked leave of absence for Mr. Price, until Monday next; leave was granted.

Mr. Swan from the committee on corporations to which had been referred the petition of sundry citizens of Jackson county, praying for a charter for a ferry at Charleston, reported bill No. 114, entitled A bill to authorize James Leonard, Oliver A. Crary, William H. Brown and Charles Swan, to establish and keep a ferry across the Mississippi river at the town of Charleston.

Said bill was read a first time.

Mr. Roberts from the committee appointed for that purpose, reported bill No. 115 entitled A bill authorizing the arrest and securing of fugitives from justice. Read a first time.

Mr. Taylor from the committee on claims, reported bill No. 116, entitled An act for the benefit of the county of Des Moines. Read a first time.

On motion of Mr. Hall,

Ordered, That James G. Edwards be employed to print the above mentioned bills.

The following message from the Council, was received by their Secretary, Mr. Wallace:

Mr. Speaker,—

I am instructed to inform the House of Representatives that the Council have passed bills of the following titles:

No. 28, An act concerning the size of counties.

No. 37, An act concerning insane persons.

No. 39, An act for the incorporation of public libraries.

The Council have also passed bill No. 70, H. R. file, An act to incorporate the Bloomington and Cedar river canal company, with sundry amendments.

In all of which the concurrence of the House is requested.

The Council have also concurred in amendments made by the House to bill No. 7, Council file, An act relative to the recorder of deeds.

They have also concurred in resolutions of the House on the subject of the survey of unsurveyed lands; and for allowing pay to the joint committee to examine the Miners' Bank of Du Buque. And then he withdrew.

The House in committee of the whole, Mr. Hastings in the chair, resumed the consideration of bill No. 104, entitled An act in relation to proceedings in civil actions. After much time spent therein, the committee rose and reported the bill with amendments.

Mr. Nowlin moved that the bill be laid on the table, which was disagreed to.

The question was then put, "will the House concur in the report of the committee?" and determined in the affirmative.

Mr. Bailey moved that the bill be committed to the judiciary committee; not agreed to.

Mr. Nowlin moved that the bill be further amended as follows:

After the word "crime" in the 111th section, add the words "and who does not believe in a future punishment;" and the question of the adoption of the same being put, was determined in the negative.

The yeas and nays being called, were as follow:

Yeas—Messrs. Nowlin, and Patterson.—2.

Nays—Messrs. Bankson, Bailey, Beeler, Blair, Brierly, Coop, Cox, Delashmutt, Frierson, Grimes, Hall, Hastings, Parker, Porter, Roberts, Summers, Swan, Taylor, Temple, Thornton, Toole and Wallace, Speaker.—23.

The bill was then ordered to be engrossed for a third reading.

On motion of Mr. Toole,

Ordered, That bill No. 45, H. R. file, entitled A bill to establish the boundaries of Louisa county, to locate the seat of justice of said county, and for other purposes, be taken from the table and read a second time. The House then resolved itself into a committee of the whole, Mr. Nowlin in the chair, for the consideration of the same. After a short time, the committee rose and reported the bill with an amendment in which the House concurred, and ordered, that the bill be engrossed and read a third time.

Mr. Hall asked and obtained leave at a future day to introduce A bill to establish a territorial road from Du Buque to Keasauqua in Van Buren county. Messrs. Hall, Swan and Coop, were appointed a committee to prepare the same.

Mr. Toole, from the committee on enrollments reported A bill providing for the appointment of district prosecutors, &c., and A bill establishing the county of Jefferson, as correctly engrossed.

Mr. Nowlin from the joint committee on enrollments reported the following entitled acts to have been yesterday presented to the Governor for his approval, viz:

An act regulating criminal proceedings.

An act concerning grand and petit jurors.

An act regulating weights and measures.

An act to provide for the partition of real property.

An act to prevent diasters on steam boats navigating the waters within the jurisdiction of this Territory.

An act to locate and establish the seat of government of the Territory of Iowa and for other purposes.

An act relative to promissory notes, bonds, bills and other instruments of writing; and,

An act to organize, discipline, and govern the militia of this Territory.

On motion, bill No. 113 H. R. file, entitled A bill to provide for the collection of demands growing out of contracts for sales of improvements on public lands, was taken up, read a second time, and considered in committee of the whole, Mr. Patterson in the chair. The committee rose after a short time, and reported the bill with amendments. The House concurred in the report of the committee and,

Ordered, That the bill be engrossed for a third reading.

On motion, the House adjourned until 2 o'clock, P. M.

2 O'CLOCK, P. M.

Mr. Toole asked leave to introduce A bill to provide for the regulation of turnpike companies, and a bill to incorporate the Burlington and Iowa river turnpike company. Leave was granted; and Messrs. Toole, Brierly and Parker, were appointed a committee to prepare said bills.

Mr. Beeler asked and obtained leave to introduce a bill concerning bills of exchange. Messrs. Beeler, Hall and Patterson, were thereupon appointed a committee to prepare the same.

Mr. Bankson from the select committee to which was referred bill No. 69, H. R. file, entitled An act regulating the publication and distribution of the laws and journals of the Legislative Assembly of the Territory of Iowa, reported the same back to the House with amendments. The report was received, and the bill and amendments were on motion considered in committee of the whole, Mr. Parker in the chair.

Mr. Wallace, the Secretary of the Council, was introduced and delivered the following message, to wit:

Mr. Speaker,—

I am directed to inform the House of Representatives, that the Council have passed bills entitled as follow, viz:

No. 40, An act to provide for the appointment of notaries public, and to prescribe their duties.

No. 41, An act regulating practice in the district courts of the Territory of Iowa.

No. 42, An act to legalize the acts of county commissioners &c.

And No. 43, An act to authorize Robert Wilson, his heirs or assigns to erect a dam across Skunk river.

In all of which the concurrence of the House is requested. And then withdrew.

The committee resumed its session and after a short time rose and reported said bill with amendments. The House concurred in the report of the committee, and ordered the bill to be engrossed and read a third time.

On motion of Mr. Summers,

Ordered, That bill No. 92, H. R. file, entitled An act to provide for the location of certain territorial roads, be taken up and read a second time.

Mr. Roberts moved that the bill be laid on the table, and made the order of the day for Monday next. Not agreed to.

The House then on motion, resolved itself into a committee of the whole, for the consideration of the same, Mr. Porter in the chair. The committee rose, reported the bill with amendments, and asked the concurrence of the House.

The House concurred in the report of the committee.

On motion of Mr. Toole,

Ordered, That the following be added to the bill as the last section thereof:

"That should any of the commissioners named in the different sections of this act, die, refuse to serve, or remove out of their respective counties, the county commissioners of the county where such vacancy shall happen, shall fill such vacancy as often as they may occur."

Mr. Taylor moved that the word "three" in the 13th section be stricken out, and the word "two" inserted in lieu thereof; which was agreed to.

The bill was then ordered to be engrossed for a third reading.

The amendments made by the Council to bill H. R. file, entitled An act to incorporate the Bloomington and Cedar river canal company, were severally read and concurred in.

The Speaker announced the following message from his Excellency the Governor of the Territory.

EXECUTIVE DEPARTMENT, IOWA TERRITORY,
JAN. 5TH, 1839. }

To the House of Representatives of the Legislative Assembly.

Gentlemen—There has been presented to me for my consideration, a resolution in the following words:

Resolved, By the Council and House of Representatives of the Territory of Iowa, that his Excellency Governor Lucas, is hereby respectfully requested to inform each House of the Legislative Assembly, of all acts by him approved during the present session, and that he is further requested hereafter to inform the Council or House in which a bill originated (as the case may be) of his approval, immediately after he has approved of the same.

(Signed)

W. H. WALLACE, Speaker H. R.

J. B. BROWNE, Pres't. of Council."

It would at all times do me a pleasure to comply with any respectful request of the Council and House of Representatives, could it be done with some propriety and conscience; but having neither secretary, clerk, messenger, assistant or other attendant, in public employ, at the Executive office, I have to depend upon the volunta-

*Introduced J. 145
or voted
resolution*

ry aid of a few private friends, for clerical and such other assistance as is needed in the discharge of indispensable duties.

This being the case, I must respectfully decline a compliance with your respectful request, and most respectfully invite your attention to my communication of the 19th December last. By that communication you will be enabled to perceive that all bills, resolutions, and memorials, that are approved by me, are immediately deposited with the Secretary of the Territory, whose duty it is made by the organic law to record and preserve the same.

If the information required should be deemed of great importance to the Council and House of Representatives, by a call on the Secretary, it can doubtless be obtained. I have, as yet, seen no good reason to change the course of executive proceeding, as pointed out in my communication of the 19th ult., to the Council, relative to bills, resolutions, and memorials, forwarded for my consideration. And until a law shall be passed regulating the intercourse between the Executive and Legislative departments of the government, embracing the principles alluded to in said communication, I shall adhere to the course there pointed out.

The resolution is herewith returned without my signature.

Respectfully, yours.

ROBERT LUCAS.

On motion of Mr. Hastings,

Ordered, That the foregoing communication be referred to the committee on vetoes.

On motion, the House adjourned.

Monday, January 7, 1839.

Mr. Taylor presented the petition of sundry inhabitants of Lee county praying that the seat of justice of said county be removed to a point as near as may be to the geographical centre thereof; and made a motion that said petition be referred to a select committee composed of the delegation from Lee county; which motion was agreed to.

Mr. Cox offered the following resolution:

Resolved, That the committee on territorial affairs be instructed to bring in a memorial asking Congress for a donation of four sections of unappropriated land, for the purpose of establishing the seat of government on for the territory of Iowa.

Resolved, That after the 16th instant, no new business of any description be introduced into this House.

Resolved, That the committee on territorial affairs be instructed to bring in a memorial asking Congress for an appropriation to be applied by the Surveyor General of Wisconsin and Iowa territories for surveying the unsurveyed land lying on the western boundary of Iowa Territory.

The first resolution was adopted.

Mr. Taylor moved that the second resolution be laid on the table. The motion was lost.

Mr. Taylor then made a motion that said resolution be amended by striking out "16th," and inserting "20th;" which motion was not agreed to.

The resolution was then adopted.

The question was then put upon the adoption of the third resolution, and determined in the affirmative.

Mr. Porter asked and obtained leave to introduce a bill authorizing Hiram C. Smith and Co. to build a dam across Skunk river.—Messrs. Porter, Patterson and Bailey were then appointed a committee to prepare the bill.

Mr. Nowlin offered the following preamble and resolution, which were adopted, viz:

Whereas the Governor of Iowa has often refused and wholly neglected to inform either branch of this legislative assembly of such acts as have met with his Executive sanction: Therefore.

Resolved by the Council and House of Representatives of the Territory of Iowa, That Wm. B. Conway, Secretary of the Territory, is hereby respectfully requested to inform each House of the Legislative Assembly of all acts, which have been transmitted to his office during the present session of the legislative assembly, and which have received, Executive sanction.

Mr. Grimes, from the committee on Vetoes, made report, which is as follows:

The committee to whom was referred three of the Executive vetoes, sent to this House, now beg leave to report:

No one can deny, or even for a moment doubt the great importance of the subjects submitted to the consideration of your committee. Several bills and joint resolutions of considerable importance, as was conceived by the Legislative Assembly, after having passed both Houses, have been returned to this House without the approbation of the Governor or with his positive "veto." Some bills have been approved of by him in part,—to some he has attached exceptions, explanations and contingencies.

Your committee have seen fit to examine not only the grounds upon which the various "Executive vetoes" have been exercised, but also the right of the Governor of this Territory to exercise the veto power upon any occasion.

Admitting then for the present, the authority of the Governor to veto, why has he exercised that power? is the question that will arise, and it is a question of considerable magnitude.

The first "vetoed resolution" submitted to this committee was in the following words:

"Resolved, by the Council and House of Representatives of the Territory of Iowa, That the Postmaster at Davenport, Scott county, be and he is hereby authorized to have the mail from Davenport to Du Buque conveyed in two horse post coaches, twice a week during the present session of this legislative assembly, and that the Post Master General of the United States be memorialized by the legislative assembly to allow and pay the extra expenses that may be incurred under this resolution."

This resolution was unanimously adopted by the Legislative Assembly, upon the suggestion of the Northern members, that they were unable to receive petitions or hear from their constituents, or their constituents to hear from them. It was a matter of notoriety, which must have been known, as well by the Executive of this Territory, as by the members of this Assembly, that the mail from Davenport to Du Buque. was irregular,—that not a fourth part of the mail could be carried in the bags at one time—that in requesting the Post Master General to defray the additional expense, this Legislature had the example of the Wisconsin Assembly—and that that request was considered reasonable and complied with very readily by the Department at Washington.

The resolution was nothing more nor less, than a call upon the Post Master General to establish, for the present winter at least, a sufficient mail route between Davenport and Du Buque. If power was assumed in that resolution which could only be exercised by the Congress of the United States, the "veto" was perfectly proper; (if it could be exercised at all) but your committee are not of that opinion. The Legislative Assembly did not stipulate with the Post Master at Davenport, that he should be paid for his extra trouble, by the United States or by the Territory. This Assembly informed him that should the mail be carried in conformity to that resolution Congress should be memorialized upon the subject; but it was still left discretionary with him.

The next 'veto message' and 'resolution' submitted to the consideration of your committee was in the following words:

"Resolved, by the Council and House of Representatives of the Territory of Iowa, That when an act is presented to the Governor for his approval, he shall, within a reasonable time thereafter, make known to the House in which said act may have originated of his approval thereof; or, if not approved of, the act shall be returned, with his objections thereto."

This resolution, your committee conceive, was couched in very proper and respectful words, and altogether necessary to regulate the intercourse between the Executive and Legislative Departments. Every person at all acquainted with legislative proceedings is aware that bills are always returned to the House in which they originated, and by that House deposited in the office of the Secretary of State.

No bills had been returned by the Executive officer to either house, except those that were returned 'vetoed,' and hence it was considered necessary to adopt the foregoing resolution. It was impossible for either House to know what bills had received the executive sanction and become laws—or what bills might be retained among the unfinished business of the session. It is with much regret that your committee has read this most extraordinarily laconic veto. It is as follows:

"I see no place in the organic law, that vests the Council and House of Representatives with the right to dictate to the Executive in the discharge of his official duties."

Your committee would not willingly encroach upon any of the rights of the Executive officer or indulge themselves in any impro-

per expressions concerning his opinions. But they must say in all candor and fairness, that they do not conceive the Governor has treated this Assembly with the dignity and fairness due to it or due to himself as the Executive head of the Territory. Your committee does not believe that this Assembly attempted or wished to dictate to the Governor. By the resolution he is himself judge of what is a reasonable time, and it was altogether left with him whether that time should be ten days or ten months.

The next veto message is as follows:

EXECUTIVE DEPARTMENT, IOWA TERRITORY, }
January 5, 1839. }

To the House of Representatives of the Legislative Assembly.

Gentlemen—There has been presented to me for my consideration, a resolution in the following words:

Resolved, By the Council and House of Representatives of the Territory of Iowa, that his Excellency Governor Lucas, is hereby respectfully requested to inform each House of the Legislative Assembly, of all acts by him approved during the present session, and that he is further requested hereafter to inform the Council or House in which a bill originated (as the case may be) of his approval, immediately after he has approved of the same.

(Signed)

W. H. WALLACE, Speaker H. R.

J. B. BROWNE, Pres't. of Council."

It would at all times do me a pleasure to comply with any respectful request of the Council and House of Representatives, could it be done with propriety and convenience; but having neither secretary, clerk, messenger, assistant or other attendant, in public employ, at the Executive office, I have to depend upon the voluntary aid of a few private friends, for clerical and such other assistance as is needed in the discharge of indispensable duties.

This being the case, I must respectfully decline a compliance with your respectful request, and most respectfully invite your attention to my communication of the 19th December last. By that communication you will be enabled to perceive that all bills, resolutions, and memorials, that are approved by me, are immediately deposited with the Secretary of the Territory, whose duty it is made by the organic law to record and preserve the same.

If the information required should be deemed of great importance to the Council and House of Representatives, by a call on the Secretary, it can doubtless be obtained. I have, as yet, seen no good reason to change the course of executive proceeding, as pointed out in my communication of the 19th ult., to the Council, relative to bills, resolutions, and memorials, forwarded for my consideration. And until a law shall be passed regulating the intercourse between the Executive and Legislative departments of the government, embracing the principles alluded to in said communication, I shall adhere to the course there pointed out.

The resolution is herewith returned without my signature.

Respectfully, yours.

ROBERT LUCAS.

Your committee is disposed to treat the Executive with all forbearance and courtesy, although the foregoing RESPECTFUL message would admit of a severe reply. Whatever may have been the intention of the Governor, in amusing this House with "plays and puns" upon the word respectful, we care not. Your committee will not so far forget their characters and dignity as to do the like, or to treat him disrespectfully or discourteously. It neither comports with the dignity of the station in which we have been placed by our constituents, nor with our own characters.

Your committee conceives that this message needs no explanation. It is well known that the bill spoken of "regulating the intercourse between the Executive and Legislative departments," was passed through both Houses and vetoed by the Governor. It is further well known that he has never called upon this Assembly for a messenger or attendant, but that one is always ready to bring veto messages at his bidding. Your committee having examined the grounds upon which three of the Governor's vetos are based, will now proceed to the other part of the subject; we have attempted to ascertain where the Governor derives the power of unconditionally vetoing bills,—but in vain. We find no such authority delegated in the Organic Law, and we believe no such power can be obtained by implication. It is a power of too much importance to the people and too liable to abuse to be executed but by positive grant. It is a power now obsolete, even in the monarchical government of Great Britain. Notwithstanding the peremptory manner in which it can be exercised in that Government, yet it has not been used since the reign of William III, in 1620, and then that sovereign was obliged to sanction the same bill at the commencement of the next Parliament which he had before disapproved of.

The second section of the organic law, in the opinion of your committee, makes it imperative and obligatory upon the Governor to approve all laws passed by the Legislative Assembly. The only duty of the Executive is to advise, appoint and place his sign manual to bills and resolutions when presented to him, and then see that those laws are executed. The phraseology of the organic law is peculiar. It is not left discretionary with him. "He shall approve," &c.

If the organic law had expressly declared that all bills should be approved before they become laws, then the veto power might be contended for with great plausibility. But by the expression of the organic law (Sec. 2.) bills become laws, upon being adopted by both Houses of the Legislative Assembly, and the Governor shall sign them, though he may refuse as the Executive to execute their behests. The Congress of the United States has a restraining and annulling power over the acts of this legislature and it certainly could not have been intended that there should be more than one "vetoing" power suspended over our heads.

No rule is better established than that the rights of individuals or communities cannot be destroyed, abridged, or infringed upon, by implication or intendment. And if this was not the case, yet your committee most confidently believe that the Congress of the United States never intended veto power to be exercised by the Governor

of the Territory of Iowa. We cannot believe that Congress intended or wished, that the opinions of one man should overbalance the unanimous opinions of thirty nine. As representatives of the people, we conceive that we should be recreant to their rights and true interests, if we should acquiesce in the "veto power" as used by the Executive, when there was the least doubt in our minds whether that DESPOTIC privilege properly belonged to his office or not. We believe such an interpretation cannot consistently be given of the Organic Law and that such an interpretation is contrary to the spirit of republican institutions,—degrading to the Legislative Assembly—and subversive of independent legislation.

We believe the people should be heard through those who represent them and are responsible to them. That their wishes should be regarded, and not the wishes of the Federal Government or a federal officer. We believe the principle claimed by the Governor is a most dangerous and pernicious principle, and as the representatives of freemen we cannot acquiesce in it. All of which is respectfully submitted.

JAS. W. GRIMES, Chairman.
C. SWAN,
LAUREL SUMMERS,
HAWKINS TAYLOR.

The report was read, and the question of the concurrence of the House in the same being taken, was determined in the affirmative.

The yeas and nays being called for, were as follow:

Yeas—Messrs. Bankson, Blair, Cox, Delashmutt, Grimes, Hall, Nowlin, Porter, Roberts, Summers, Swan, Taylor, Temple, Thornton, Toole and Wallace, Speaker.—16.

Nays—Messrs. Bailey, Beeier, Brierly, Coop, Frierson and Patterson.—6.

Mr. Nowlin then moved that James G. Edwards be employed to print 1000 copies of the said report. The motion was agreed to.

The yeas and nays being called for, were as follow:

Yeas—Messrs. Bankson, Blair, Cox, Delashmutt, Grimes, Hall, Nowlin, Porter, Roberts, Summers, Swan, Taylor, Temple, Thornton, Toole and Wallace, Speaker—16.

Nays—Messrs. Bailey, Beeler, Brierly, Coop, Frierson and Patterson—6.

Mr. Toole, from the committee on Enrolments, reported the following entitled bills to have been correctly engrossed, viz:

A bill establishing the boundaries of Louisa county.

A bill regulating blacks and mulattoes, and to punish the kidnappers of such persons.

A bill regulating general and special elections.

And a bill providing for the appointment of Justices of the Peace.

Mr. Swan made report in the following words:

The joint committee on enrolments have examined

An act allowing and regulating writs of attachment.

An act to authorize Wm. Meek and sons to erect a dam across the Des Moines river.

An act concerning apprentices and servants; and having compared the same with the engrossed bills, find them to be correctly enrolled.

The two first named acts were then signed by the Speaker, and the clerk ordered to present them to the President of the Council for his signature.

Mr. Beeler, from the committee appointed for that purpose, reported bills, No. 117 and 118, entitled an act to authorize an interchange of statute laws of the territory of Iowa, with the several states and territories of the United States, and an act concerning bills of exchange; which bills were read a first time.

Mr. Toole, from the select committee, reported

Bill No. 119, entitled a bill to provide for the regulation of turnpike companies. Said bill was read a first time.

Mr. Hall from the select committee, reported bill No. 120, entitled an act to establish a territorial road from Du Buque to Keasauque in Van Buren county; which was read a first time.

Bills of the Council, No. 28, 37, 39, 40, 41, 42 and 43, were severally read a first time.

Bill No. 89, H. R. file, entitled an act to allow and regulate the action of waste, was read a second time and considered in committee of the whole, Mr. Roberts in the chair. The committee rose and reported the bill without amendment. The House concurred in the report, and pending the question of the engrossment of the bill, Mr. Cox made a motion to strike out all after the enacting clause of the same. The motion was lost, and the bill ordered to be engrossed and read a third time.

On motion of Mr. Bankson,

Resolved, That no person shall be allowed to smoke a pipe or cigar in this hall, during the sittings of the House of Representatives.

The House then resolved itself into a committee of the whole, Mr. Summers in the chair, for the consideration of bill No. 96, H. R. file, entitled an act to authorize Henry Eno & Co. to erect a dam across the Des Moines river. The committee after a short time rose, and reported the bill with amendments, in which the House concurred, and ordered that the bill be engrossed for a third reading.

Bill No. 108, H. R. file, entitled an act to incorporate the Des Moines Mill company and for other purposes, was also read and considered in committee of the whole, Mr. Swan in the chair. The committee, after a short period, rose, and by their chairman reported the bill to the House with amendments; in which the House concurred, and ordered that the bill be engrossed and read a third time.

Bill No. 109, H. R. file, was likewise read and considered. After a short time the committee rose, and by their chairman, Mr. Taylor, reported the bill to the House with amendments, which were concurred in. The rules of the House were then temporarily suspended, by motion of Mr. Roberts, and the bill read a third time, passed, and the title agreed to.

Ordered that the bill be sent to the Council for concurrence.

Bill No. 110, H. R. file, entitled a bill to authorize John Gaines, Otis Reynolds, &c. to keep a ferry across the Mississippi river opposite Round Mound, at the upper mouth of the Des Moines river, was also read and considered in committee of the whole, Mr. Temple in the chair. The committee after some time rose, and reported the bill with amendments, in which the House concurred, and ordered that the bill be further amended by having the third section thereof stricken out, be engrossed, and read a third time.

Bill No. 116, H. R. file, entitled a bill for the benefit of Des Moines county, was then read and considered in committee of the whole, Mr. Toole in the chair. After some time the committee rose and reported the bill without amendment. The House concurred; and pending the question of the engrossment of the bill,

On motion, the House adjourned to 2 o'clock, P. M.

2 O'CLOCK, P. M.

The question pending at the adjournment in relation to a bill for the benefit of Des Moines county, being "shall the bill be engrossed, and read a third time?"

On motion of Mr. Frierson,

Ordered that a call of the House be had.

Mr. Patterson then obtained leave of absence until next week, for Mr. Taylor.

Several members being absent, as well as the sergeant at arms,

On motion of Mr. Cox,

The messenger was sent for the sergeant at arms.

On motion of Mr. Nowlin,

The assistant messenger was despatched to procure the attendance of absent members.

After a short period, Mr. Grimes moved that the call of the House be dispensed with; which motion was agreed to.

Mr. Hastings then made a motion to amend the 6th section of the bill by striking out "one hundred and one," and inserting "sixty;" which was disagreed to.

The question pending was then put, and determined in the affirmative.

The yeas and nays being called for, were as follow:

Yeas—Messrs. Bankson, Beeler, Blair, Cox, Delashmutt, Frierson, Grimes, Hall, Nowlin, Summers, Swan, Temple and Wallace, Speaker—13.

Nays—Messrs. Bailey, Brierly, Coop, Hastings, Patterson, Parker, Porter, Price, Roberts, Thornton and Toole—11.

The following message from the Council was received, by their Secretary, Mr. Wallace:

Mr. Speaker—

I am directed to inform the House, that the Council have passed bill No. 36, H. R. file, entitled an act fixing the terms of the supreme and district courts of the territory of Iowa, and for other purposes, with amendments.

I am also directed to inform the House that the Council have adopted a preamble and resolution upon the subject of a salary for the

reporter of the Supreme Court. In which amendments and preamble and resolution, the concurrence of the House is requested.

I also herewith return to the House, an act to authorize William Meek and sons to erect a dam across the Des Moines river; also an act allowing and regulating writs of attachment, the same having been signed by the President of the Council.

I also herewith present for your signature, an act concerning apprentices and servants. And then he withdrew.

Bill No. 112, H. R. file, entitled a bill to preserve good order in all worshipping congregations and societies, was then taken up, read and considered in committee of the whole, Mr. Bankson in the chair. The committee rose, and reported the bill with amendments, in which the House concurred, and

Ordered that the bill be referred to the select committee by which it was reported.

Bill No. 93, H. R. file, entitled a bill to define the boundaries of the counties of Scott and Clinton, was taken up and read a second time.

A motion was then made, that the House resolve itself into a committee of the whole on the same, which was not agreed to.

Bill No. 114, H. R. file, entitled a bill to authorize James Leonard &c. to keep a ferry opposite the town of Charleston, was read a second time, and considered in committee of the whole, Mr. Bailey in the chair. After a short time, the committee rose, and reported the bill with amendments, in which the House concurred, and

Ordered, That the bill be engrossed for a third reading.

Bill No. 115, H. R. file, entitled a bill to provide for arresting and securing of fugitives from justice, was also read and considered in committee of the whole, Mr. Beeler in the chair. The committee rose, reported the bill to the House without amendment, and asked its concurrence. The House concurred, and the question being "shall the bill be engrossed and read a third time?" it was determined in the negative.

Bill No. 23, H. R. file, entitled a bill to divide the county of Henry, was read a third time, and on motion of Mr. Hall, laid on the table.

Mr. Grimes obtained leave to present a petition of inhabitants of Lee county, praying that if the county seat of said county is to be relocated, it may only be done by the voice of the people; and moved the reference of said petition to the committee to which was referred petitions on the same subject this morning. When, on motion,

Ordered, That Messrs. Grimes and Bailey be added to said committee.

Bill No. 36, Council file, entitled a bill to authorize the appointment of public administrators and prescribing their duties, was then read a third time, passed, and the title agreed to.

Ordered, That the Council be informed.

Bills of the House of Representatives, No. 45, a bill to establish the boundaries of Louisa county, and to locate the seat of justice of the said county, and for other purposes.

No. 80, a bill to provide for the appointment of district prosecutors and defining their duties.

No. 97, a bill to regulate blacks and mulattoes, and to punish the kidnappers of such persons.

No. 99, a bill providing for and regulating general elections, were then severally read a third time, passed, and the titles thereof agreed to.

No 58, a bill to provide for the appointment of Justices of the Peace and to prescribe their powers and duties, was read a third time and passed.

The yeas and nays being called, were as follow:

Yeas—Messrs. Bankson, Bailey, Beeler, Brierly, Cox, Delashmutt, Frierson, Grimes, Hall, Hastings, Nowlin, Patterson, Porter, Price, Summers, Swan, Temple, Thornton, Toole and Wallace, Speaker—20.

Nays—Mr. Roberts—1.

The title of the bill was then agreed to.

Ordered, that said bills be sent to the Council for concurrence.

Bill No. 84, H. R. file, entitled a bill in relation to bonds and other securities, was read and considered in committee of the whole, Mr. Brierly in the chair. The committee rose and reported the bill without amendment.

The question then being "will the House concur in the report of the committee?" Mr. Grimes made a motion, that the same be indefinitely postponed; which motion was agreed to.

Bill No. 87, H. R. file, entitled a bill concerning the revival of statutes, was taken up, read a second time, and

On motion of Mr. Cox,

Laid on the table until the 20th instant.

Bill No. 90, H. R. file, entitled a bill providing for the burial of dead bodies found on board of vessels, was read and considered in committee of the whole, Mr. Cox in the chair. The committee rose and reported the bill with an amendment, in which the House concurred, and ordered that the bill be engrossed for a third reading.

Mr. Grimes, from the committee on the Judiciary, to which was referred No. 98, a bill to assess and collect a county revenue, reported the same back to the House with amendments. The bill and amendments were then considered in committee of the whole, Mr. Delashmutt in the chair. The committee rose and reported the bill as amended without amendment.

The House concurred in the report of the committee, and

On motion of Mr. Summers,

Ordered, That the bill be amended so as to make the poll tax to be collected one dollar instead of seventy five cents.

The bill was then ordered to be engrossed.

Mr. Price asked and obtained leave to introduce a bill regulating the issuing of writs of ne exeat and injunctions.

Messrs. Price, Roberts and Hastings were appointed a committee to prepare the bill.

Mr. Hastings from the select committee to which had been referred bill No. 64, H. R. file, entitled a bill to prescribe the mode of proving in courts of this Territory, judgments rendered by justices

of the peace in the several states, reported the same back to the House without amendment.

Mr. Bailey moved that the vote by which bill No. 98 was ordered to be engrossed be reconsidered; to which the House agreed; and

On motion of Mr. Cox,

Ordered, That the following be added to the 2d section as an addition proviso thereto, viz:

Provided, that it shall be left discretionary with the county commissioners of every county whether such poll tax shall be levied and collected or not.

The bill was then ordered to be engrossed and read a third time.

Mr. Swan, offered the following:

Resolved, That the committee on territorial affairs be instructed to enquire into the expediency of memorializing Congress to so far amend the organic law of this territory, that members of the Council and House of Representatives shall be entitled to more than three dollars per day for their attendance in any future Legislative Assembly of the Territory of Iowa.

The resolution was rejected.

On motion, the House adjourned.

Tuesday, January 8, 1839.

Mr. Cox presented the petition of sundry inhabitants of Jackson county, praying that the Legislative Assembly memorialize Congress for a delay of further sales of public lands in this Territory, and moved the reference of said petition to the committee on territorial affairs, which motion was agreed to.

Mr. Beeler, from the committee on enrollments, reported A bill to provide for the collection of demands growing out of contracts for sales of improvements on public lands, as having been correctly engrossed.

Mr. Price, from the same committee, reported as correctly engrossed, A bill for the improvement of the breed of horses.

Mr. Roberts from the committee appointed for that purpose, reported bill No. 121, entitled A bill to organize the county of Jones and establish the seat of justice thereof. The bill was read a first time.

Mr. Toole, from the select committee appointed to prepare bill No. 122, entitled A bill to incorporate the Burlington and Iowa river turnpike company, reported the same. The bill was read a first time.

Mr. Price, from the committee appointed to prepare bill No. 123, entitled A bill regulating the issuing of writs of ne exeat and injunction, reported the same. The bill was read a first time.

On motion of Mr. Swan,

Ordered, That James G. Edwards be employed to print the foregoing bills; also, those read a first time yesterday.

Preamble and resolution from the Council on the subject of a salary for reporter of the supreme court, were then read and concurred in.

On motion of Mr. Temple,

Ordered, That the vote of yesterday, taken on the question of the adoption of a resolution offered by Mr. Swan in relation to the per diem pay of the Legislative Assembly, be reconsidered.

The question was then again put, and the resolution adopted.

The yeas and nays being called for, were as follow:

Yeas—Messrs. Bankson, Bailey, Brierly, Coop, Cox, Delashmutt, Grimes, Hall, Nowlin, Patterson, Porter, Roberts, Summers, Swan, Temple, Thornton, Toole and Wallace, Speaker.—18.

Nays—Messrs. Beeler, Blair, Frierson, Parker and Price.—5.

Bill No. 28, Council file, entitled A bill concerning the size of counties, and providing a way in which county lines may be altered, was read a second time, and,

On motion of Mr. Cox,

Laid on the table and made the order of the day for the 22d January inst.

Bill No. 37, Council file, entitled An act concerning insane persons, was read a second time and considered in committee of the whole Mr. Frierson in the chair. The committee after a short time, rose and reported the bill without amendment. The report was received, and the bill ordered to be engrossed for a third reading.

Bill No. 93, H. R. file, entitled "A bill to define the boundaries of the counties of Scott and Clinton," was,

On motion of Mr. Summers,

Ordered to be considered in committee of the whole, Mr. Grimes in the chair. After some time, the committee rose, and reported the bill without amendment. Pending the question of concurring in the report of the committee, a call of the House was had and an absent member sent for.

The absentee appearing, after some time, the question, "will the House concur in the report of the committee?" was put, and determined in the affirmative.

The yeas and nays being called for were as follow:

Yeas—Messrs. Bankson, Bailey, Beeler, Brierly, Coop, Cox, Delashmutt, Grimes, Hall, Nowlin, Patterson, Parker, Porter, Price, Summers, Swan, Temple and Wallace, Speaker.—18.

Nays—Messrs. Blair, Frierson, Hastings, Roberts, Thornton and Toole.—6.

Mr. Swan then offered the following as an addition to the 2d section of the bill, viz:

"Townships eighty-seven, in ranges three and four east, including the fractional townships of range five, are hereby detached from Jackson county, and attached to the county of Du Buque." Adopted.

Mr. Frierson offered the following amendment to the 3d section of the bill, to be inserted after the word "meridian" in the 4th line, viz:

"To the line of Muscatine county; thence east, on the boundary line of said county, to the line dividing ranges one and two east; thence south, on said range line, to the Mississippi river."

And the question of the adoption of the amendment being put, was determined in the negative.

The yeas and nays being called for, were as follow:

Yeas—Messrs. Bankson, Bailey, Beeler, Blair, Delashmutt, Frierson, Grimes, Hastings, Roberts, Thornton and Toole.—11.

Nays—Messrs. Brierly, Coop, Cox, Hall, Nowlin, Patterson, Parker, Porter, Price, Summers, Swan, Temple and Wallace, Speaker.—13.

Mr. Hastings then made a motion to lay the bill on the table until Monday next; which motion was disagreed to.

The yeas and nays being called for were as follow:

Yeas—Messrs. Bailey, Beeler, Blair, Delashmutt, Frierson, Grimes, Hastings, Roberts, Thornton and Toole.—10.

Nays—Messrs. Bankson, Brierly, Coop, Cox, Hall, Nowlin, Patterson, Parker, Porter, Price, Summers, Swan, Temple and Wallace, Speaker.—15.

The bill was then ordered to be engrossed for a third reading.

Mr. Swan, from the joint committee on enrollments, made the following report:

The joint committee appointed for that purpose, presented to the Governor for his signature, on yesterday, the following acts, viz:

An act to authorize William Meek & sons, to erect a dam across the Des Moines river, and

An act to allow and regulate writs of attachment.

Mr. Wallace, the Secretary of the Council, was introduced and delivered the following message:

Mr. Speaker,—

The Council have passed bill No. 67, H. R. file, entitled An act to establish the boundaries of Lee county, with an amendment, in which amendment the concurrence of the House is requested, and then he withdrew.

The House adjourned.

Wednesday, January 9, 1839.

Mr. Frierson offered the following:

Resolved, That the Hon. Joseph Williams be allowed three dollars per day, as a compensation for his services in drafting bills for this House, from the time he was first employed, to the 25th December ult. The resolution was adopted.

On motion of Mr. Grimes,

Ordered, That the Hon. Charles Mason be allowed three dollars per day, for services in drafting bills for the Legislative Assembly, from the time he was first employed, to the first day of January inst.

Mr. Porter from the committee appointed to prepare bill No. 124,

entitled An act to authorize Hiram C. Smith to erect a dam across Skunk river, reported the same. The bill was read a first time.

Mr. Parker from the select committee to which was referred a bill entitled An act to preserve good order in all worshipping congregations and societies, &c. reported the same back to the House with amendments.

Mr. Toole from the committee on enrollments, reported bill No. 126, H. R. file, entitled An act to establish the several seminaries herein named, as having been correctly engrossed.

Bill No. 39, Council file, entitled An act for the incorporation of public libraries was read a second time and considered in committee of the whole, Mr. Hall in the chair. The committee rose after a short time, and reported the bill without amendment. The House concurred in the report of the committee.

The question was then put, "shall the bill be engrossed and read a third time?" and determined in the affirmative.

The yeas and nays being called for were as follow:

Yeas—Messrs. Bankson, Bailey, Beeler, Blair, Brierly, Delashmutt, Frierson, Grimes, Hall, Hastings, Patterson, Porter, Price, Roberts, Summers, Taylor, Temple, Thornton and Toole.—19.

Nays—Messrs. Cox, Nowlin, Parker and Wallace, Speaker—4.

Bill No. 40, Council file, entitled An act to provide for the appointment of notaries public and to prescribe their duties, was read and considered in committee of the whole, Mr. Hastings in the chair. After a short time, the committee rose, and obtained leave to sit again.

On motion, the House adjourned until 2 o'clock, P. M.

2 O'CLOCK, P. M.

Bill No. 41, Council file, entitled An act regulating practice in the district courts of the Territory, was read a second time, and,

On motion of Mr. Grimes,

Laid on the table.

Bill No. 42, Council file, entitled An act to legalize the acts of county commissioners, was read and considered in committee of the whole, Mr. Nowlin in the chair. The committee, after some time, rose and reported the bill without amendment. The report was concurred in, and the question put, "shall the bill be engrossed and read a third time?" and determined in the negative.

Bill No. 43, Council file, entitled An act to authorize Robert Wilson, his heirs or assigns to erect a dam across Skunk river, was also read, and

Ordered, That the House resolve itself into a committee of the whole, Mr. Patterson in the chair. After a short time, the committee rose and reported the bill without amendment. The House concurred in the report of the committee, and

Ordered, That said bill be engrossed for a third reading.

Bill No. 64, H. R. file, entitled A bill to prescribe the mode of proving in courts of this Territory judgments rendered by justices of the peace in the several states, was read a second time and considered in committee of the whole, Mr. Parker in the chair. After a short time, the committee rose, reported the bill without amend-

ment. The report was concurred in and the bill ordered to be engrossed, and read a third time.

Bills, H. R. file, entitled as follows:

No. 76, A bill to incorporate the town of Bloomington.

No. 88, A bill concerning notaries public.

No. 91, A bill to prevent imposition by way of lottery.

No. 103, A bill to provide for the appointment of a territorial treasurer, and defining his duties.

No. 117, A bill to authorize an interchange of statutes.

No. 118, A bill concerning bills of exchange.

No. 119, A bill to provide for the regulation of turnpike companies were then severally read a second time, and considered in committee of the whole, Mr. Porter in the chair. After some time, the committee rose, and by their chairman obtained leave to sit again for the further consideration of bill No. 88, reported bills No. 76, 91 and 117 without amendment, bills No. 103, 118 and 119, with amendments to the House and asked its concurrence. The House concurred in the report, and

Ordered, That bills No 76, 91, 103, 117, 118 and 119, be engrossed for a third reading.

On motion of Mr. Coop,

✓ Bill No. 23, H. R. file, entitled A bill to divide the county of Henry, and establish the county of Jefferson, was taken up and read a third time.

Mr. Porter asked the unanimous consent of the House to amend the bill; which was refused.

Mr. Grimes then made a motion that the bill be laid on the table; which was agreed to.

Bill No. 67, entitled An act to establish the boundaries of Lee county, was taken up, by motion of Mr. Patterson, and the amendment made to the same, by the Council concurred in.

Bill No. 37, Council file, entitled "A bill concerning insane persons," was read a third time, passed, and the title agreed to.

Ordered, That the Council be informed.

On motion of Mr. Taylor,

↓ Bill No. 23, was taken from the table, and the question "shall the bill pass?" put and decided in the affirmative.

The yeas and nays being called for, were as follow:

Yeas—Messrs. Bankson, Bailey, Beeler, Brierly, Coop, Frier-son, Hall, Nowlin, Patterson, Parker, Price, Roberts, Summers, Taylor, Temple and Thornton.—16.

Nays—Messrs. Porter, Tole and Wallace, Speaker—3.

The title of the bill was then agreed to, and the clerk directed to present the same to the Council for concurrence.

Mr. Nowlin, from the committee on enrollments, reported as correctly enrolled, An act to incorporate the Bloomington and Cedar river canal company. Which act was then signed by the Speaker, and the clerk directed to present it to the President of the Council for his signature.

Bills, H. R. file, No. 111 and 113, entitled An act for the improvement of the breed of horses, and

An act to provide for the collection of demands growing out of contracts for sales of improvements on public lands, were read a third time, passed, titles agreed to, and

Ordered to be sent to the Council for concurrence.

The Speaker announced a communication from two of the Judges of the Supreme Court, enclosing a bill, No. 125, relative to proceedings in chancery; which bill was read a first time, and James G. Edwards employed to print the same.

The House then adjourned.

Thursday, January 10, 1839.

Mr. Frierson presented the petition of inhabitants of Muscatine county, praying for an enlargement of the boundaries of said county. Said petition was, on motion, referred to the committee on townships and county boundaries.

Mr. Bankson presented the petition of Eliphalet Price, praying that the Legislative Assembly memorialize Congress to grant him the right of pre-emption to the northeast quarter of section sixteen, in range two west, and township ninety-one north. Which petition was referred to the committee on territorial affairs.

Mr. Beeler from the committee on enrollments, reported the following entitled bills as correctly engrossed, viz:

An act to incorporate the Des Moines mill company, and for other purposes.

An act to define the boundaries of Clinton and Scott.

An act to prescribe the mode of proving, in courts of this Territory, judgments rendered by justices of the peace in the several states.

Mr. Swan, from the committee on enrollments, made report in the following words:

The committee on enrollments have examined An act establishing certain territorial roads, and find it correctly engrossed.

The House in committee of the whole, Mr. Hastings the chair, resumed the consideration of bill No. 40, Council file, entitled An act to provide for the appointment of notaries public, and to prescribe their duties. The committee, after a short time, rose, and by their chairman reported the bill with an amendment, in which the House concurred. The first section of the bill was then amended,

On motion of Mr. Bailey,

By striking out "four" before "years," and inserting "two." The bill was then ordered to be engrossed and read a third time.

Mr. Taylor, from the committee appointed to prepare bill No. 126, entitled An act for the removal and re-location of the county seat of Lee county, reported the same. The bill was read a first time, and on motion, James G. Edwards, was employed to print the same.

Mr. Hastings, from select committee, reported bill No. 127, entitled An act to provide for the admission of attorneys and counsellors at law. Read a first time.

On motion of Mr. Grimes,

The vote taken yesterday on engrossing bill No. 42, Council file, entitled An act to legalize the acts of county commissioners, was reconsidered, and the bill, by motion of Mr. Nowlin, laid on the table.

Mr. Hastings obtained leave to present the petition of James Davis, sheriff of Muscatine county, praying that his account for ordering elections in said county, be audited and paid. The petition was referred to the committee on expenditures.

Bill No. 101, entitled A bill concerning amendments and jeofails, was read a second time and considered, for a short time in committee of the whole, Mr. Price in the chair. The committee then rose and obtained leave to sit again.

The following message from the Council was received by their Secretary, Mr. Wallace:

Mr Speaker,—

I am directed to inform the House of Representatives, that the Council have passed the following entitled acts, viz:

An act to regulate the mode of petitioning the legislature in certain cases.

An act to establish the boundary lines of Washington county, and for other purposes.

An act to incorporate the Iowa Mutual Fire Insurance company.

An act to incorporate the Plymouth Mill and Manufacturing company.

In all of which the concurrence of the House is requested.

The Council have also passed bill No. 45, H. R. file, entitled An act to establish the boundaries of Louisa county, and for other purposes, without amendment.

I also herewith return two resolutions of the House, the same being signed by the President of the Council. The Secretary then withdrew.

Mr. Summers obtained leave to introduce, at a future day, A bill to regulate the practice of physicians. Messrs. Summers, Hall and Thornton, were appointed the committee to prepare said bill.

Mr. Parker likewise obtained leave to introduce A bill regulating inclosures, and

A bill providing for the summary relief of securities in certain cases. Messrs. Parker, Brierly and Blair, were appointed the committee to prepare the same.

Mr. Brierly also obtained leave to bring in A bill concerning vagrants, and

A bill to authorize F. P. Blevings to keep a ferry across the Mississippi river at the town of Apevepetuk. Messrs. Brierly, Cox, and Coop, were appointed the committee to prepare said bills.

Bill No. 41, Council file, entitled, A bill regulating practice in the District Courts of this Territory was then taken from the table by motion of Mr. Nowlin, and considered in committee of the whole, Mr. Roberts in the chair. The committee after a short time, rose and obtained leave to sit again.

Bill No. 112, R. R. file, entitled A bill to preserve good order in all worshipping congregations and societies in this Territory, was taken up, read a second time and considered in committee of the

whole, Mr. Summers in the chair. After some time the committee rose and reported the bill with amendments in which the House concurred and ordered the same to be engrossed for a third reading.

Mr. Grimes from the committee on the judiciary, who had been instructed to bring in a bill No. 123, to provide for the compensation of sheriffs of the different counties of this Territory, for ordering elections, obtained leave then to report the same. The bill was then read a first time, and the rule requiring the same to be printed suspended.

On motion, said bill was read a second time and ordered to be considered in committee of the whole, Mr. Taylor in the chair. The committee rose after a short time and reported the bill with amendments in which the House concurred, and

Ordered, That the 16th rule of the House be suspended. The bill was then read a third time, and on motion, laid on the table.

The House resolved itself into a committee of the whole, Mr. Temple in the chair, for the consideration of bill No. 120, entitled A bill to locate a territorial road from Du Buque to Keasauqua in Van Buren county.

The committee rose after much time spent therein, and reported the bill with amendments in which the House concurred, and

Ordered, That the same be committed to the committee by which it was reported.

On motion, the House adjourned until 2 o'clock, P. M.

2 O'CLOCK, P. M.

Bill No. 121, H. R. file, entitled A bill to organize the county of Jones, and to locate the seat of justice thereof, was read a second time, and considered in committee of the whole, Mr. Bankson in the chair. The committee rose and reported the bill with amendments, in which the House concurred, and ordered the bill to be engrossed for a third reading.

Bill No. 95, entitled A bill for the appointment and duties of sheriffs, was read and considered in committee of the whole, Mr. Bailey in the chair. The committee rose and obtained leave to sit again.

Mr. Cox moved that the House adjourn. The motion was disagreed to.

The yeas and nays being called for, were as follow:

Yeas—Messrs. Cox, Porter, Roberts and Thornton.—4.

Nays—Messrs. Bankson, Bailey, Beeler, Blair, Brierly, Coop, Delashmutt, Nowlin, Patterson, Parker, Price, Summers, Swan, Taylor and Toole.—15.

A call of the House was then had, and the sergeant-at-arms sent for absent members.

After a short time the further call of the House was suspended by motion of Mr. Nowlin, and the committee of the whole resumed the consideration of the above mentioned bill No. 95; the committee rose and reported the same with amendments in which the House concurred and ordered that the 16th standing rule be suspended in reference thereto. Said bill was then read a third time, passed, title agreed to, and

Ordered to be sent to the Council for concurrence.

Mr. Swan from the committee on enrollments, made report as follows:

The committee on enrollments have compared. An act to establish the boundaries of Lee county, with the engrossed bill and find it correctly enrolled; also have examined bill No. 106, H. R. file, and find it correctly engrossed. Said act was duly signed by the Speaker, and

Ordered, That the clerk present it to the President of the Council for his signature.

The following message from the Council, was received by their Secretary, Mr. Wallace:

Mr. Speaker,—

I am instructed to inform the House of Representatives, that the Council have passed bill No. 46, An act to authorize David W. Kilbourn to keep a ferry across the Mississippi river at the town of Montrose. In which the concurrence of the House is requested.

The Council have also passed bill No. 77, H. R. file, An act to authorize Benjamin Nye to build a dam across Pine river, without amendment, and

No 83, H. R. file, An act concerning costs and fees, with amendments. In which amendments the concurrence of the House is requested.

I herewith return An act to incorporate the Bloomington and Cedar river Canal company, the same being signed by the President of the Council.

I also present for your signature a preamble and resolution relative to a salary for the reporter of the supreme court.

Bill No. 122, entitled A bill to incorporate the Burlington and Iowa river turnpike company, was read a second time and considered in committee of the whole, Mr. Beeler in the chair. After a short time the committee rose and reported the bill without amendment. The House concurred in the report of the committee.

Mr. Beeler made a motion to amend the bill by inserting the following in the blank of the first section to wit:

"Wm. B. Remey, Charles J. Starr, John S. David, Richard F. Barrett and Leander J. Lockwood, of Des Moines county," Which motion was agreed to.

The bill was then ordered to be engrossed and read a third time.

Bill No. 123, H. R. file, entitled A bill regulating writs of ne exeat and injunctions, was taken up, read a second time, and on motion, laid on the table.

Bill No. 128, entitled An act to provide for the compensation of sheriffs in the different counties in this Territory for ordering elections, was amended as follows, by the unanimous consent of the House, viz:

Add the following: "To J. B. Griffith, sheriff of Clayton county, fifty dollars: to Samuel Trowbridge, sheriff of Johnson county, twenty-five dollars."

The question of the passage of the same was put, and determined in the affirmative.

Bill No. 66, H. R. file, entitled An act to establish the severa

seminaries herein named, was read a third time, passed and title thereof agreed to.

Ordered, That said bills be sent to the Council for concurrence.

Bill No. 39, Council file, entitled A bill for the incorporation of public libraries, was also read a third time, passed, and title agreed to.

Ordered, That the Council be informed.

On motion, the House adjourned to 7 o'clock, P. M.

7 O'CLOCK, P. M.

The House met pursuant to adjournment.

The hall not being sufficiently lighted, Mr. Grimes made a motion that the door-keeper be sent for a box of candles, which motion was disagreed to.

Mr. Cox moved that the House adjourn, to which the House agreed.

Mr. Taylor having called for the yeas and nays, they were as follow:

Yeas—Messrs. Bankson, Coop, Cox, Hall, Nowlin, Porter, Roberts, Thornton, Toole and Wallace, Speaker—10.

Nays—Messrs. Bailey, Beeler, Brierly, Delashmutt, Grimes, Patterson, Price, Summers and Taylor—9.

On motion, the House adjourned.

Friday, January 11, 1839

Mr. Brierly, from the committee appointed for that purpose, reported bills No. 129, 130 and 131, entitled A bill to authorize Francis P. Bleving & Co. to keep a ferry across the Mississippi river.

A bill providing for the assessment of taxes on the Half Breed lands in Lee county, and

A bill concerning vagrants.

Said bills were read a first time, and ordered to be printed by J. G. Edwards.

Mr. Parker, from a select committee, reported bill No. 132, entitled An act regulating enclosures.

The bill was read a first time, and James G. Edwards employed to print it.

Mr. Hall, from the committee to which had been recommitted A bill to locate a territorial road from Du Buque to Keasauqua in Van Buren county, reported the same back to the House with amendments.

Mr. Swan, from the committee appointed to prepare A bill No. 133, to district the Territory of Iowa into electoral districts, and apportion the members of the House of Representatives in the same, reported said bill, which was then read a first time, and the rule requiring it to be printed, suspended.

Mr. Nowlin, from the joint committee on enrollments, reported the following to be correctly enrolled, viz:

An act to authorize Benjamin Nye to erect a dam across Pine river.

An act to establish the boundaries of Louisa county, and to locate the seat of justice of said county.

The said acts were then signed by the Speaker, and ordered to be presented to the President of the Council for his signature.

Mr. Toole, from the committee on enrollments, reported the following to have been correctly engrossed, viz:

A bill to allow and regulate the action of waste.

A bill to provide for the burial of dead bodies found on board of vessels.

A bill authorizing Henry Eno & Co. to erect a dam across the Des Moines river.

A bill authorizing John Gaines, Otis Reynolds, &c. to keep a ferry across the Mississippi river opposite the Round Mound, at the upper mouth of the Des Moines river.

A bill authorizing James Leonard, Oliver A. Craig, &c. to keep a ferry opposite the town of Charleston.

A bill authorizing an interchange of statutes; and

A bill regulating proceedings in civil actions.

Mr. Brierly obtained leave to introduce two memorials to Congress on the subject of the erection of bridges. Messrs. Brierly, Porter and Parker, were appointed the committee to prepare said memorials.

Mr. Price also obtained leave to introduce A bill providing for the relief of the sheriff of Lee county. Messrs. Price, Taylor and Hall were appointed the committee to prepare the bill.

Mr. Wallace, the Secretary of the Council, was introduced and delivered the following message:

Mr. Speaker,—

I am directed to inform the House of Representatives that the Council have concurred in the resolution of the House requesting the Hon. Wm. B. Conway, to inform the Legislative Assembly of all acts, &c. which had been filed in his office and sanctioned by the Executive.

Bills of the Council No. 30, 32, 34, 44 and 46, were then severally read a first time.

Bill No. 125, entitled A bill relative to proceedings in chancery, was read a second time, and considered in committee of the whole, Mr. Brierly in the chair. After a short time, the committee by their chairman reported the bill to the House without amendment. The report was concurred in. The 16th rule being then suspended, by motion, the bill was read a third time, passed, and title agreed to.

Ordered, That said bill be sent to the Council for concurrence.

Bill of the Council No. 41, entitled A bill regulating practice in the districts courts of this Territory, was again considered in committee of the whole, Mr. Roberts in the chair. The committee after a short time rose, and reported the bill without amendment. The report was concurred in, and the question, "shall the bill be engrossed and read a third time?" put and determined in the affirmative.

The yeas and nays being called for, were as follow:

Yeas—Messrs. Bankson, Bailey, Beeler, Cox, Hall, Nowlin, Patterson, Parker, Porter, Price, Roberts, Summers, Swan, Taylor, Temple, Toole and Wallace, Speaker—17.

Nays—Messrs. Blair, Brierly, Coop, Delashmutt, Frierson, Grimes, Hastings and Thornton—8.

A communication from the Hon. Charles Mason, enclosing A bill, No. 134, entitled An act regulating the action of replevin, was announced by the Speaker. Said bill and communication were read and referred to the committee on the Judiciary.

A communication from James G. Edwards was read, and with his account for printing, referred to the committee on expenditures.

Bill No. 126, entitled A bill for the removal and re-location of the seat of justice of Lee county, was read a second time.

Mr. Grimes then made a motion that the bill be laid on the table until Monday next; which motion was not agreed to.

The House resolved itself into a committee of the whole, Mr. Coop in the chair, for the consideration of said bill. The committee after some time, rose and reported the bill with amendments. The question "will the House concur in the report of the committee?" was then put, and determined in the affirmative.

The yeas and nays being called for, were as follow:

Yeas—Messrs. Bankson, Bailey, Blair, Coop, Cox, Delashmutt, Frierson, Hastings, Nowlin, Patterson, Parker, Porter, Price, Roberts, Summers, Swan, Taylor, Thornton, Toole and Wallace, Speaker—20.

Nays—Messrs. Beeler, Grimes, Hall and Temple—4.

Mr. Beeler moved further to amend said bill as follows:

At the end the 2d section add the following: "And should the commissioners be of opinion that the seat of justice should be and continue at Fort Madison, they shall so report." The amendment was rejected.

The 6th and 7th lines of the first section, reading thus: "Having particular reference to the geographical centre of the county, and healthfulness and convenience of the location;" the same were then amended,

On motion of Mr. Beeler,

By inserting between the words "centre" and "of," the words "and welfare."

Mr. Beeler made a motion that the 6th section of the bill be stricken out, and the following inserted in lieu thereof:

SEC. 6. That until the public buildings are completed and ready for holding courts therein, the districts and other courts of said county, shall continue to be held at the town of Fort Madison. Which motion was disagreed to.

The bill was then ordered to be engrossed for a third reading.

Bills H. R. file, No. 64, entitled A bill to prescribe the mode of proving in courts of this Territory, judgments rendered by justices of the peace in the several states; and No. 92, entitled A bill establishing territorial roads; were then read a third time, passed, and titles agreed to.

Ordered, That said bills be sent to the Council for concurrence.

Bill No. 93, entitled A bill to define the boundaries of Scott and Clinton counties, was taken up and read a third time. Pending the question, "shall the bill pass?" a call of the House was had by motion.

of Mr. Frierson, and the Sergeant-at-arms sent for an absent member. The absentee not appearing,

On motion, the House adjourned to 2 o'clock, P. M.

2 O'CLOCK, P. M.

The question remaining undecided at the last adjournment being, "shall bill No. 93, H. R. file, pass?" the same was put, and determined in the affirmative.

The yeas and nays being called for, were as follow:

Yeas—Messrs. Bankson, Brierly, Coop, Cox, Hall, Nowlin, Patterson, Parker, Price, Summers, Swan and Wallace, Speaker—12.

Nays—Messrs. Bailey, Beeler, Blair, Frierson, Grimes, Hastings, Roberts, Taylor, Thornton and Toole—10.

Mr. Grimes, made a motion to lay the title of said bill on the table, which the chair decided to be out of order.

The title thereof was then agreed to, as amended by motion of Mr. Swan, and ordered to be sent to the Council for concurrence.

Bills of the House of Representatives as follows were then severally read a third time, passed, and titles agreed to, viz:

No. 89, An act to allow and regulate the action of waste.

No. 90, An act to provide for the burial of dead bodies found on board of vessels.

No. 96, An act to authorize Henry Eno & Co. to erect a dam across the Des Moines river.

No. 106, An act to incorporate the Burlington steam mill company.

No. 108, An act to incorporate the Des Moines mill company, and for other purposes.

No. 110, An act to authorize John Gaines, Otis Reynolds & Co. to keep a ferry across the Mississippi river opposite the Round Mound, at the upper mouth of the Des Moines river.

No. 117, An act to authorize an interchange of statute laws of the Territory of Iowa, with the several states and territories of the United States.

Ordered, That said bills be sent to the Council for concurrence.

Bill No. 104, entitled An act regulating proceedings in civil cases, was also read a third time, and on motion, laid on the table.

Mr. Delashmutt obtained leave to introduce at a future day, A bill to lay out and district the county of Des Moines, for the purpose of electing county commissioners. Messrs. Delashmutt, Blair and Beeler, were appointed a committee to prepare the same.

Bill No. 100, entitled An act regulating mills and millers, was taken up, read a second time, and considered in committee of the whole, Mr. Cox in the chair. After some time the committee rose, and by their chairman reported the bill with amendments, which were concurred in.

Mr. Nowlin made a motion that the 10th and 11th sections of the bill be stricken out, which was lost.

Mr. Coop moved that the 11th section after the word "part," be stricken out. Not agreed to.

Mr. Nowlin then made a motion that the words "now in operation or" be stricken from the first line of the 10th section; which motion was also disagreed to.

The bill was then ordered to be engrossed and read a third time.

Mr. Delashmutt obtained leave of absence for Mr. Temple until Monday next.

Bill No. 120, entitled A bill to establish a territorial road from Du Buque to Keasauqua in Van Buren county, with amendments made by the committee to which it was yesterday referred, was considered in committee of the whole, Mr. Delashmutt in the chair. The committee rose, after a short time, and reported the bill to the House with an amendment, which was concurred in.

Ordered, That said bill be engrossed for a third reading.

Bills, H. R. file, No. 69, An act regulating the publication and distribution of the laws and journals of the Territory of Iowa, and

No. 114, An act to authorize Oliver A. Creary, Wm. H. Brown and Charles Swan, to keep a ferry &c. were then severally read a third time, passed, and titles agreed to.

Ordered, That the same be sent to the Council for concurrence.

Bill No. 36, H. R. file, entitled An act fixing the time for holding the supreme and district courts and for other purposes, as amended by the Council, was taken up, and on motion,

Ordered to be referred to the committee on the Judiciary.

Bill No. 44, Council file, entitled An act to incorporate the Plymouth Mill and Manufacturing Company, was read a second time, and considered in committee of the whole, Mr. Frierson in the chair. After a short time, the committee by their chairman reported the bill without amendment. The House concurred in the report of the committee, and the 16th and 18th rules being suspended in reference to said bill, the same was read a third time, passed, and title agreed to.

Ordered, That the Council be made acquainted therewith.

Bill No. 129, entitled An act to authorize Francis P. Blevings to keep a ferry across the Mississippi river at the town of Awhipetuk, was read a second time and considered in committee of the whole, Mr. Grimes in the chair. After some time, the committee reported the bill with amendments, in which the House concurred.

Mr. Taylor then made a motion, that the rules be suspended, and the bill read a third time and put upon its passage, which motion was not agreed to.

Mr. Porter moved that the following be added to the second section of the bill at the end thereof, viz:

"Provided, That the said Francis P. Blevings shall at the expiration of five years procure a good and sufficient steam or horse ferry boat, otherwise this act to be null and void."

The motion was agreed to.

On motion of Mr. Porter,

The rules of the House were temporarily suspended, and the bill read a third time, passed, and title as amended agreed to.

Ordered, That said bill be sent to the Council for concurrence.

Mr. Swan from the committee on enrollments, reported bills No. 91, 103 and 122, as correctly engrossed.

Bill No. 133, entitled A bill to district the Territory of Iowa into electoral districts, and apportion the members of the House of Representatives in the same, was read a second time and considered in committee of the whole, Mr. Hall in the chair. The committee after some time, by their chairman, reported the bill with amendments, which were concurred in.

The 16th and 18th rules were then suspended in reference to the same, and the bill read a third time, passed, title agreed to, and ordered to be sent to the Council for concurrence.

Mr. Hastings offered the following:

Resolved, That the honorable Charles Mason, be requested to furnish bills for the action of this House, until the 20th day of January inst. Rejected.

Mr. Nowlin offered the following:

Whereas, the present session of the Legislative Assembly is drawing near the close, and that it is improper that many new bills should be introduced during the remainder of the session, therefore,

Resolved, By the Council and House of Representatives of the Territory of Iowa, That the resolution requesting the Judges of the supreme court to draft and present bills to the Legislative Assembly, be and the same is hereby rescinded; which were adopted.

On motion of Mr. Grimes,

Ordered, That the Secretary of the Territory, be instructed to pay the Hon. Charles Mason three dollars per day from the first day of January, 1839, to the present time.

Mr. Porter asked leave to introduce A bill establishing a seminary at Mount Pleasant, which was granted. Messrs. Porter, Coop and Bailey, were appointed a committee to prepare the bill.

Mr. Beeler offered the following:

Whereas, The present session of the Legislative Assembly will expire in a few days, and there is still remaining a great number of bills in both branches of this assembly to receive the action of both Houses, and a great number of those bills being of a local nature, and standing in the way of the action of the Legislative Assembly, on bills of a general nature, which are essentially necessary to pass into laws; therefore,

Resolved, By the House of Representatives, That the Speaker of the House shall appoint a committee, whose duty it shall be to select from the different bills in progress, such as they may deem most important for the general good, and people of the territory; which bills, when so selected, shall be entitled to a preference in the action of the Legislative Assembly.

Which were, on motion of Mr. Porter, laid on the table.

The House adjourned to six and a half o'clock, P. M.

6½ O'CLOCK, P. M.

Bill No. 83, entitled An act concerning costs and fees, as amended by the Council was read, and the amendments having reference to the mileage and per centage allowed to sheriffs for collecting, to constables for mileage, to witnesses and petit jurors for attendance

in court, were severally disagreed to: the remainder of the amendments made by Council to said bill, were concurred in.

Ordered, That the clerk acquaint the Council therewith.

Bill No. 124, entitled An act to authorize Hiram C. Smith & Co. to erect a dam across Skunk river, was read a second time and considered in committee of the whole, Mr. Hastings in the chair. The committee after a short time reported the bill by their chairman with an amendment, which was concurred in. The 16th and 18th rules were suspended by motion of Mr. Porter, and the bill read a third time, passed, title agreed to, and

Ordered to be sent to the Council for concurrence.

The Secretary of the Council, Mr. Wallace, being introduced, delivered the following message:

Mr. Speaker,—

I am instructed to inform the House of Representatives, that the Council have passed the following entitled acts, viz:

An act concerning the construction of statutes; also

The following acts of the House with amendments:

An act to provide for the appointment of sheriffs, &c.

An act to provide for the appointment of justices of the peace, &c.

In all of which the concurrence of the House is requested.

I also herewith return the following bills which have been signed by the President of the Council.

An act to establish the boundaries of Lee county:

An act to establish the boundaries of Louisa county, and to locate the seat of justice of said county.

An act to authorize Benjamin Nye to build a dam across Pine river; also

A joint resolution requesting W. B. Conway, Esq. to inform the Assembly of all acts thereof, which have received the approval of the Executive.

The Council have also passed bill No. 105, H. R. file. An act authorizing a special term of the district courts in Muscatine county, with an amendment, in which the concurrence of the House is requested. And then he withdrew.

Bills No. 131, entitled An act concerning vagrants; and

No. 132, An act regulating enclosures, were read a second time and considered in committee of the whole, Mr. Patterson in the chair. The committee by their chairman, reported said bills with amendments, in which the House concurred, and

Ordered the same to be engrossed and read a third time.

The amendments of the Council made to bill No. 105, were read and concurred in.

Bill No. 101, entitled An act concerning amendments and jeofails, was, on motion, again considered in committee of the whole, Mr. Price in the chair. The committee after a short time, by their chairman, reported the bill with an amendment, which was concurred in.

Ordered, That said bill be engrossed and read a third time.

Bill No. 127, entitled An act to provide for the admission of attorneys and counsellors at law, was read a second time and considered in committee of the whole, Mr. Parker in the chair. The commit-

tee rose and by their chairman reported the bill with amendments, in which the House concurred, and ordered that the same be engrossed for a third reading.

Bill No. 30, Council file, entitled An act to regulate the mode of petitioning the Legislature in certain cases, was read and considered in committee of the whole, Mr. Porter in the chair. The committee rose, reported the bill without amendment and asked the concurrence of the House. The House concurred and ordered the bill to a third reading.

Bill No. 32, Council file, was likewise read and considered, Mr. Roberts in the chair, who, after a short time obtained leave for the committee to sit again.

The House then adjourned.

Saturday, January 12, 1839.

On motion of Mr. Frierson,

Resolved, That a committee of one from each electoral district be appointed to inquire into the expediency of establishing a penitentiary in this territory, and that they have leave to report by bill or otherwise on Monday next.

Messrs. Frierson, Bailey, Delashmutt, Cox, Summers, Roberts, Taylor and Porter were appointed said committee.

Mr. Beeler, from the joint committee on enrolments, reported the following acts to have been this day presented to the Governor for his approval, viz:

An act to incorporate the Bloomington and Cedar river canal company.

An act to establish the boundaries of Louisa county, to locate the seat of justice of said county, and for other purposes.

An act to authorise Benjamin Nye to build a dam across Pine river; and

An act to establish the boundaries of Lee county.

Also a joint resolution allowing pay to the committee who investigated the affairs of the Miners' Bank of Du Buque, and a preamble and resolution asking Congress for an appropriation for the survey of all unsurveyed lands in the territory of Iowa, to which the Indian title has been extinguished.

Mr. Grimes from the committee on the judiciary, to which had been referred the communication received yesterday from the Hon. Charles Mason, reported bill No. 134, entitled an act regulating the action of replevin, which bill was read a first time, and

On motion of Mr. Bankson,

Ordered to be printed by J. G. Edwards.

Mr. Price from a select committee, reported bill No. 135, 'A bill providing for the relief the sheriff of Lee county.'

The bill was read a first time, and the rule requiring bills to be

Mr. Nowlin from the committee on expenditures, to which had been referred the account of James G. Edwards for printing, made report that the committee would recommend the adoption of the following:

Resolved, That James G. Edwards be allowed the sum of one hundred and thirteen dollars and ninety two cents, the amount of his account for occasional printing by order of this House.

The resolution was adopted.

Mr. Nowlin from the committee on territorial affairs, to which was referred the petition of Eliphalet Price, reported a memorial to the Congress of the United States, in relation to settlements on school lands. The memorial was read a first and second time, and is as follows:

To the Honorable, the Senate and House of Representatives of the United States, in Congress assembled.

The memorial of the Legislative Assembly of the Territory of Iowa, would most respectfully represent to your honorable body that in the settlement of that portion of this territory within the Du Buque land district, many of our fellow citizens previous to the survey of the country, unfortunately and innocently settled upon the sixteenth section,—land reserved by the general government for school purposes, and that in many instances, large and valuable improvements have been made thereon: and that without the interposition of our parent government, this portion of our settlers will be reduced to poverty.

Your memorialists would suggest to your honorable body, that a large portion of the country referred to, was settled at the instance and by the invitation of agents of the general government, consequently they cannot be considered intruders upon the public domain. Your memorialists would therefore respectfully ask your honorable body to interpose in behalf of this portion of our fellow citizens by passing a law, giving to them the right of pre-emption to the quarter section upon which they are settled, including their improvements, and that the same quantity be located upon unoccupied lands for school purposes. Your memorialists are clearly of opinion that a measure of this character will not lessen the school fund, as other lands equally valuable, (without improvements) can be elsewhere located in lieu of the same, and that it will be doing a great justice to those who have unfortunately expended much labor and means in the improvement of portions of the sixteenth section. And, as in duty bound, your memorialists will ever pray, &c.

The following message from the Council was received, by their Secretary, Mr. Wallace:

Mr. Speaker—

I am directed to inform the House of Representatives, that the Council have passed an act defining crimes and punishments, in which the concurrence of the House of Representatives is requested.

I also herewith return an act authorizing a special term of the district court, in Muscatine county, the same being signed by the President of the Council.

Mr. Toole from the committee on enrolments, reported bills No. 112, 116, 118, 119, 121, and 126, as correctly engrossed.

On motion of Mr. Summers,

The above named bill No. 135 was considered in committee of the whole, Mr. Porter in the chair. Memorial to Congress in relation to the 16th section of public lands was, by motion of Mr. Taylor, considered by the same committee. After some time, the committee, by their chairman, reported the bill with amendments, which were concurred in, and the memorial with amendments, to which the House disagreed.

The yeas and nays being called for, were as follow:

Yeas—Messrs. Bankson, Cox, Frierson, Grimes, Hall, Nowlin, Patterson, Roberts, Summers, Taylor and Toole—11.

Nays—Messrs. Bailey, Beeler, Blair, Brierly, Coop, Delashmutt, Hastings, Parker, Porter, Price, Thornton and Wallace, Speaker—12

Mr. Taylor called for the previous question.

The question was then put, "shall the main question be now put?" and determined in the affirmative; when Mr Roberts made a motion that the House adjourn, which motion was disagreed to.

The yeas and nays being called for, were as follow:

Yeas—Mr. Roberts—1.

Nays—Messrs. Bankson, Bailey, Beeler, Blair, Brierly, Coop, Cox, Delashmutt, Frierson, Grimes, Hall, Hastings, Nowlin, Patterson, Parker, Porter, Price, Summers, Taylor, Thornton, Toole and Wallace, Speaker—22.

The main question, "shall the memorial be engrossed and read a third time?" was then put and determined in the affirmative.

The yeas and nays being called for, were as follow:

Yeas—Messrs. Bankson, Brierly, Coop, Cox, Frierson, Grimes, Hall, Nowlin, Patterson, Porter, Price, Summers, Taylor, Thornton and Wallace, Speaker.—15.

Nays—Messrs. Bailey, Beeler, Blair, Delashmutt, Hastings, Parker, Roberts and Toole—8.

Ordered, That said bill No. 135, be also engrossed for a third reading.

Bill No. 47, Council file, entitled An act concerning the construction of statutes, &c. was read a first time and the rule requiring the same to be printed, suspended.

On motion, the House resolved itself into a committee of the whole, Mr. Roberts in the chair, for the consideration of the bill. The committee rose, after a short time, and by their chairman reported said bill without amendment.

The House concurred in the report of the committee. Mr. Cox then made a motion that the bill be laid on the table, which was lost.

On motion of Mr. Beeler,

The 16th and 18th rules were suspended in relation to said bill and the same read a third time, passed, and the title agreed to.

Ordered, That the clerk acquaint the Council therewith.

Bill No. 34, Council file, entitled an act to incorporate the Iowa Mutual Fire Insurance company, was read a second time, and on mo-

tion considered in committee of the whole, Mr. Summers in the chair. After some time the committee rose, reported progress, and obtained leave to sit again.

Mr. Beeler from the committee on enrolments reported that a joint resolution requiring the Secretary of the Territory, to inform the Legislative Assembly in relation to acts deposited in his office with the approval of the Governor, had been this day presented to said Secretary.

On motion, the House adjourned.

Monday, January 14, 1839.

Mr. Cox presented the account of Andrew F. Russel, for furnishing twenty six maps of the territory, and on motion the said account was referred to the committee on expenditures.

Mr. Beeler from the joint committee on enrolments, reported "An act to authorise a special term of the district court, in Muscatine county," to have been presented to the Governor for his approval on the 12th inst.

Mr. Grimes from the committee on the judiciary to which had been referred a bill fixing the time for holding the Supreme and District Courts and for other purposes, reported the same back to the House with amendments.

Mr. Swan from the committee on enrolments, reported as correctly engrossed, bills No. 76, 100 and 120.

Mr. Frierson from the committee appointed to inquire into the expediency of establishing a penitentiary within this Territory, made report accompanied by bill No. 136, entitled, A bill to provide for the erection of a penitentiary.

Said bill was read a first time.

Mr. Beeler asked and obtained leave to introduce bill No. 137, entitled an act for the appointment of constables and defining their duties.

On motion said bill was read a first time and the rule requiring it to be printed suspended.

Mr. Delashmutt from the committee appointed for that purpose, reported bill 138, entitled an act to district the county of Des Moines, for the election of county commissioners.

Read a first time.

On motion of Mr. Taylor,

Ordered, that James G. Edwards be employed to print bills ordered to be printed on to day.

Mr. Nowlin from the committee on territorial affairs, to which had been referred the petition of sundry citizens of Jackson county, praying that the Legislative Assembly memorialize the President of the United States to withhold the sale of public lands in this territory, reported a memorial for that purpose, which memorial was read a first time, and is as follows:

To his Excellency MARTIN VAN BUREN, President of the United States.

Your memorialists, the Council and House of Representatives of the territory of Iowa, would most respectfully represent the propriety of withholding the sale of public lands.

Many of the worthy and respectable citizens of Iowa have emigrated to this country within the last two years, and have taken up claims and made valuable improvements thereon. They have labored under many disadvantages and privations in order to secure to themselves and families a comfortable home.

They have spent their all, in thus emigrating and laboring to provide a support for themselves and families, thinking that the same course would be taken as was heretofore pursued by the general government, and that the lands would not be brought into market until they could have at least two or three years to enable themselves to purchase their farms.

Your memorialists would farther state that if the lands are brought into market the ensuing season, many of our citizens will be compelled either to surrender their homes or borrow money from the speculator at fifty, and perhaps a hundred per cent.

Your memorialists would earnestly recommend that you withhold the further sale of public domain for at least one year from November next, during which time our worthy citizens may reap the benefit of at least one crop from their farms.

All of which is respectfully submitted, &c.

The House then, on motion, resolved itself into a committee of the whole, Mr. Summers in the chair, on the amendments made by the committee on the judiciary, to a bill fixing the terms of the Supreme and District courts of the territory, &c.

The committee, by their chairman, made report thereon, which was received, and said amendments adopted.

The amendments made by the Council to No. 58, a bill to provide for the appointment of Justices of the Peace, to define their duties and regulate their proceedings, were severally read and concurred in.

Ordered, That the Council be informed.

Bill No. 130, entitled an act to provide for the collection of taxes off the half breed lands in Lee county, was read a second time and considered in committee of the whole, Mr. Taylor in the chair.—The committee rose after a short time, and by their chairman reported the bill with amendments, in which the House concurred, and

On motion of Mr. Taylor,

Ordered, That that the 16th and 18th rules be suspended in relation to said bill.

The bill was then read a third time, passed, and the title agreed to.

Ordered that the same be sent to the Council for concurrence.

Bill No. 134, entitled an act regulating the action of replevin, was taken up, read a second time, and considered in committee of the whole, Mr. Temple in the chair. The committee after a short time,

by their chairman, reported said bill without amendment. The House concurred in the report, and

On motion of Mr. Cox,

Ordered, that the 14th section be stricken out, and the bill ordered to be engrossed for a third reading.

Mr. Hastings offered the following:

Resolved, that James G. Edwards be employed to print five hundred copies of the act concerning justices of the peace, in pamphlet form, to prepare an index to the same, and deposit the same with the Secretary of the Territory. And the said Secretary is hereby authorized to pay the said Edwards the sum of two hundred dollars, on the deposit of the copies in his office. And the Secretary is hereby required to distribute the copies among the several counties of this Territory, immediately after they are received, one to each judicial officer in every county.

The resolution was laid on the table.

Bill No. 46, Council file, entitled an act to authorize David W. Kilbourn to keep a ferry across the Mississippi river at the town of Montrose, was read a second time and considered in committee of the whole, Mr. Toole in the chair. After a short time the committee, by their chairman, reported the bill without amendment. The House concurred in the report, and ordered the bill to a third reading.

Bills, Council file, No. 30, entitled an act to regulate the mode of petitioning the legislature in certain cases, and No. 41, entitled an act regulating practice in the district courts of the Territory of Iowa, were read a third time, passed, and titles agreed to.

Ordered, That the clerk acquaint the Council therewith.

Bill No. 116, entitled an act for the benefit of Des Moines county, was read a third time, and the question, "shall the bill pass?" put and determined in the affirmative.

The yeas and nays being called for and were as follow:

Yeas—Messrs. Bankson, Beeler Blair, Coop, Cox, Delashmutt, Frierson, Grimes, Hall, Summers, Swan, Taylor, Temple, Thornton and Wallace, Speaker—15.

Nays—Messrs. Bailey, Brierly Patterson, Parker, Porter, Price, Roberts and Toole—8.

Bills of the House of Representatives, entitled as follow:

No. 76, An act to incorporate the town of Bloomington.

No. 91, An act to prevent imposition by way of lottery in this territory.

No. 100, An act regulating mills and millers.

No. 103, An act to provide for the appointment of a Territorial Treasurer and defining his duties.

No. 112, An act to preserve good order in all worshipping congregations and societies in this territory.

No. 118, An act concerning bills of exchange.

No. 119, An act to provide for the regulation of turnpike companies.

No. 120, An act to locate a territorial road from the town of DuBuque to Keasauqua, in Van Buren county.

No. 121. An act to organize the county of Jones, and establish the seat of Justice thereof.

No. 122, An act to incorporate the Burlington and Iowa river turnpike company;

Were severally read a third time, passed and the titles agreed to.

Bill No 126, entitled "an act for the relocation of the county seat of Lee county," was also read a third time.

Mr. Taylor obtained the unanimous consent of the House to offer the following as an additional section to the bill:

"Sec. 7. That upon the presentation of the certificate of service, signed by the aforesaid commissioners, it shall be the duty of the treasurer of Lee county to audit and pay the respective sums allowed by the provisions of this act, out of any money in the treasury not otherwise appropriated." Adopted.

The question was then put, "Shall the bill pass?" and determined in the affirmative.

The yeas and nays being called for, were as follow:

Yeas—Messrs. Bankson, Bailey, Blair, Brierly, Coop, Cox, Delashmutt, Frierson, Hastings Nowlin, Patterson, Parker, Porter, Price, Roberts, Summers, Swan, Taylor, Thornton, Togle and Wallace, Speaker—21.

Nays—Messrs. Beeler, Grimes, Hall, and Temple—4.

So the bill passed and the title thereof was agreed to.

Ordered, That said bills be sent to the Council for concurrence.

On motion of Mr. Taylor,

Bill No. 29, Council file, entitled an act concerning crimes and punishments, was taken up and read a second time. The House then resolved itself into a committee of the whole on the same, Mr. Taylor in the chair. After some time the committee rose, and by their chairman obtained leave to sit again.

Mr. Hall asked leave at a future day to introduce a bill providing for the recording of town plats, and a bill to incorporate the Keasauqua Lyceum.

Leave was granted, Messrs. Hall, Cox and Swan, were appointed a committee to prepare the bills, and then

On motion of Mr. Cox,

Wm. H. Turner was employed to assist in enrolling and engrossing bills.

On motion, the House adjourned until 2 o'clock, P. M.

2 O'CLOCK, P. M.

Mr. Swan, from the committee on enrolments, reported as correctly engrossed, bills No 96, 101, 131, and 135. Also a memorial to Congress on the subject of settlements upon school lands.

Mr. Beeler obtained leave at a future day, to introduce a bill to incorporate the Burlington and Des Moines river canal company.

Messrs. Beeler, Hall and Parker, were appointed a committee to prepare the bill.

Mr. Hasting, from select committee, reported bill No. 139, entitled an act to provide for the sale of the land on which the seat of

justice of Muscatine county is located; which bill was read a first time.

Bill No. 95, entitled an act for the appointment and duties of sheriffs as amended by the Council, was taken up, read, the amendment to the 9th section concurred in, and that made to the 14th section disagreed to.

Ordered, That the Council be informed.

Mr. Taylor, by leave, introduced a memorial to Congress, praying for the passage of an act, granting school lands to the board of commissioners of Lee county, for the purposes of education in the half breed tract; which memorial was read a first and second time, and on motion, considered in committee of the whole, Mr. Brierly in the chair. The committee after some time, reported the memorial with amendments, in which the House concurred, and ordered that the same be engrossed for a third reading. The said memorial is as follows:

To the Senate and House of Representatives of the United States of America, in Congress assembled.

Your memorialists, the Council and House of Representatives of the Territory of Iowa, would respectfully represent, that by a treaty between the United States and the Sac and Fox tribes of Indians ratified on the fourth day of August, 1834, a large and valuable tract of land lying between the Des Moines and Mississippi rivers and lying in the county of Lee, in this Territory, was reserved for the half breeds of the said Sac and Fox tribes of Indians; which tract of land (containing one hundred and nineteen thousand acres) was confirmed to the use and benefit of the said half breeds, by an act of Congress, approved the 30th day of June, 1834, by which treaty and act the county of Lee has lost a large and the most valuable portion of the school land.

We, therefore, pray your honorable body to pass an act granting the board of county commissioners, for the county of Lee, the privilege of locating six and a quarter sections of land in any part of this Territory, to be used for the purposes of education in the said half breed tract of land: *Provided* said land shall not be located on any person's improvement. All of which is most respectfully submitted, &c.

Mr. Wallace, the Secretary of the Council, was introduced and delivered the following message:

Mr. Speaker,—

I am instructed to inform the House of Representatives, that the Council have passed the following entitled acts of the House without amendment, viz:

No. 102, An act confirming grants of property made for the encouragement of education and for other purposes.

No. 109, An act to organize the county of Linn, and to establish the seat of justice thereof.

No. 108, An act to incorporate the Des Moines Mill company, and for other purposes.

Also, the following entitled acts of the House with amendments:

No. 80, An act to provide for the appointment of district prosecutors and defining their duties.

No. 96, An act to authorize Henry Eno & Co. to erect a dam across the Des Moines river.

No. 78, An act for establishing Courts of Probate.

In all of which the concurrence of the House is requested.

The Council have concurred in the memorial to Congress on the subject of a survey of Skunk river.

Also a resolution instructing the Secretary of the Territory to procure copies of all memorials adopted by the Legislative Assembly, to be forwarded to the President of the United States, &c.

I also herewith present for your signature, An act to provide for changing the venue in civil and criminal cases. And then he withdrew.

The said last named act was then signed by the Speaker.

The amendments made by the Council to bill No. 78, a bill to establish Courts of Probate, were read and concurred in.

The amendments made by the Council to bill No. 80, entitled a bill providing for the appointment of District prosecutors, were read and concurred in.

The yeas and nays being called for were as follow:

Yeas—Messrs. Bankson, Bailey, Beeler, Blair, Brierly, Coop. Delashmutt, Frierson, Hastings, Patterson, Parker, Price, Summers, Thornton and Toole—15.

Nays—Messrs. Cox, Grimes, Hall, Nowlin, Porter, Roberts, Swan, Taylor and Wallace, Speaker—9.

The amendments of the Council to bill No 96, entitled a bill to authorise Henry Eno & Co. to erect a dam across the Des Moines river, were also read and concurred in.

Bills of the House of Representatives, No 88, entitled An act to collect and assess a county revenue.

No. 101, An act concerning amendments and jeofails.

No. 131, an act concerning vagrants.

No 135, an act providing for the relief of the sheriffs of Lee and Scott counties; were severally read a third time, passed, and the titles agreed to.

Also a memorial on the subject of settlement on school lands.

Ordered, That said bills and memorials be sent to the Council for concurrence.

Bill No. 34, Council file, entitled an act to incorporate the Mutual Fire Insurance company, was again considered in committee of the whole, Mr. Summers in the chair. After some time the committee rose, and reported the bill with amendments, in which the house refused to concur, and ordered said bill to a third reading.

Mr. Nowlin, from the committee on territorial affairs, which had been instructed to inquire into the expediency of memorializing Congress to increase the per diem pay of members of the Legislative Assembly, made report accompanied by the following:

Resolved, by the Council and House of Representatives of the territory of Iowa, That the Hon. Wm. W. Chapman, our delegate in Congress, be instructed to use his influence in having the organic law amended so as to raise the per diem of members of the Legislative Assembly.

The report was received, and the resolution adopted.

Bill No. 29, Council file, entitled an act defining crimes and punishments, was again considered in committee of the whole, Mr. Bankson in the chair. After a short time the committee rose, reported farther progress and obtained leave to sit again.

The House adjourned.

Tuesday, January 15, 1839.

Mr. Wallace, the Secretary of the Council, being introduced, delivered the following message:

Mr. Speaker,—

I am directed to inform the House that the Council have passed the following entitled acts, with amendments, viz:

No. 23, H. R. file, An act to divide the county of Henry, and establish the county of Jefferson.

No. 144, An act for the improvement of the breed of horses.

In which the concurrence of the House is requested.

The Council have also passed the following without amendment.

No. 64, H. R. file, An act to prescribe the mode of proving in courts of this Territory, judgments rendered by justices of the peace in the several states.

No. 113, An act to provide for the collection of demands growing out of contracts, for sales of improvements on public lands.

The Council have also concurred in amendments made by the House, to amendments of the Council, to bill No. 36, H. R. file, An act fixing the terms of the supreme and district courts, &c. And then withdrew.

Mr. Grimes from the committee on the judiciary, to which had been referred the petition of H. E. W. East, praying for a divorce from his wife, Sarah East, made an unfavorable report thereon.

Mr. Patterson, from the committee to which had been referred the account of A. F. Russell, for furnishing the House with maps reported the following resolution.

Resolved, That the Secretary of the Territory pay Andrew F. Russel the sum of one hundred and thirty dollars, which shall be in full for constructing twenty-six maps of this Territory for the House of Representatives.

Mr. Cox made a motion to amend the resolution by striking out "one hundred and thirty," and inserting in lieu thereof "one hundred and eighty-two;" which motion was agreed to, and the resolution as amended adopted.

Mr. Hall, from the select committee reported bills No. 140, entitled An act to incorporate the Keasauqua Lyceum, and

No. 141, An act to provide for the recording of town plats; which bills were read a first time.

Mr. Parker obtained leave to introduce No. 142, entitled A bill supplementary to an act for the location of the seat of government, which bill was read a first time, when Mr. Grimes made a motion to lay the same on the table; which motion was disagreed to.

The yeas and nays being called, were as follow:

Yeas—Messrs. Cox, Delashmutt, Grimes, Hall, Porter, Summers, and Wallace, Speaker—7.

Nays—Messrs. Bankson, Bailey, Beeler, Blair, Brierly, Coop, Frierson, Hastings, Nowlin, Patterson, Price, Roberts, Swan, Taylor, Thornton and Toole—16.

The Speaker announced a communication from the Hon. Wm. B. Conway, Secretary of the Territory, which was read and is as follows:

SECRETARY'S OFFICE, }
TERRITORY OF IOWA, JAN. 14, 1839. }

To the Honorable the Speaker of the House of Representatives.

SIR:—The receipt of a joint resolution adopted by the Honorable the Legislative Assembly, and transmitted to this Department on the 12th inst., is hereby respectfully acknowledged.

The resolution now referred to, is accompanied by a preamble, which sets forth that the Governor of this Territory "has often refused, and wholly neglected to inform either branch of the Legislative Assembly, of such acts as have met with his Executive sanction; and, therefore, the Secretary is requested to furnish the information thus withheld from the Representatives of the people of Iowa.

With this request, so reasonable in itself, and so necessary to a proper understanding of the progress already made in our Territorial legislation, and the further prosecution of the public business, the Secretary is entirely disposed to comply. And therefore a list of all the acts, resolutions and memorials which have been forwarded from the Executive to this Department, is herewith transmitted to the House of Representatives; accompanied by a respectful request, that a copy of the same be made out by order of the House, for the use of the Council; or if it appear on the printed journal, the same object may be attained without the trouble of taking a transcript. The press of business will justify this suggestion.

By the terms of the resolution now before him, the Secretary is requested to specify all acts of the present session of the Legislative Assembly, "which have received the Executive sanction." It is peculiarly unpleasant for the Secretary to be obliged to say, that this requirement involves a principle, which, in the present instance, must be viewed through the medium of learned obscurity. Whether the acts named on the list now submitted and numbered 41, 42, 43, 44 and 45, have received the "Executive sanction," is a question calculated to engender a multitude of doubts. All these acts relate to ferries across the Mississippi river and embrace all the acts on that subject, now in the office, with the solitary exception of an act granting ferry privileges across the same river, to his Honor Judge Williams and Charles Alexander Warfield, at the town of Bloomington, in the county of Muscatine; which said act last mentioned, has received an unconditional approval from his Excellency the Governor. In assenting to the five acts enumerated before the exception just noticed, a reference is made thereon, in the hand writing of the Governor, to the future judicial construction of their provisions involving subjects already protected by the laws of Congress, as well

as the laws of the Territory of Iowa. For the information of the Honorable the Legislative Assembly, the Secretary will quote the form most generally adopted by his Excellency, Governor Lucas, in assenting to these acts.

On the Act authorizing Ralph Letton to establish and keep a ferry across the Mississippi river at the town of Parkhurst, the following endorsement in the hand waiting of the Governor, precedes the approval, to wit:

"N. B. *As far as this Act may be construed to interfere with the property of the United States, or individual rights, it will be considered void—in other respects valid.* With this note of explanation, I yield to it my assent. Approved January 4th, 1839.

(Signed,)

ROBERT LUCAS."

The notes endorsed on all these acts, are substantially the same; stating, that "as far as they may be construed" to do so and so, the Governor considers they "will be void," and "in other respects," he considers they will be "valid;" except the Act for establishing a ferry across the Mississippi river at Du Buque which merely comprehends a wider range of nullifying subjects.

Whether these acts can be properly embraced by the requirement of your resolution, as acts which have received the "Executive sanction," is a question with which the Secretary has no right, and therefore, no disposition to interfere; but inasmuch as they have been sent to this office, as acts which have received the final action of the Executive Department, the Secretary conceives it to be a duty to give them a place in the list of acts herewith transmitted; accompanied by a repetition of the high consideration, with which he has the honor to remain,

Your obedient servant,

WM. B. CONWAY,

Secretary of the Territory of Iowa.

List of acts which have been approved by His Excellency Robert Lucas, Governor of Iowa, and now on file in the office of the Secretary of the Territory.

1. An act relative to Mechanics' liens and for other purposes. H. R. Approved December 17th, 1838.

2. An act to locate and establish a territorial road from Keokuk, on the Mississippi river, to Iowa city, on the Des Moines river. H. R. Approved, December 14, 1838.

3. An act to provide for the incorporation of agricultural societies. Council. Approved, December 19, 1838.

4. An act to repeal an act of the Legislative Assembly of the Territory of Wisconsin, of January 19th, 1838. H. R. Approved, December 14, 1838.

5. An act to organize, discipline and govern the militia of this Territory. Council. Approved, January 4, 1839.

6. An act regulating weights and measures. H. R. Approved, January 4, 1839.

7. An act concerning grand and petit jurors. H. R. Approved, January 4, 1839.

8. An act to provide for the partition of real property. H. R. Approved, January 4, 1839.

9. An act regulating criminal proceedings. H. R. Approved, January 4, 1839.
10. An act relative to promissory notes, bonds and other instruments of writing. H. R. Approved, January 4, 1839.
11. An act to allow and regulate the action of right. H. R. Approved, December 29, 1838.
12. An act to prevent the selling of spirituous liquors to Indians. H. R. Approved, January 3, 1839.
13. An act to establish a seminary of learning at Wapello, in Louisa county. Council. Approved, December 29, 1838.
14. An act for the relief of securities of persons charged with criminal offences. H. R. Approved, January 3, 1839.
15. An act to establish the boundaries of Louisa county, and to locate the seat of justice of the said county, and for other purposes. H. R. Approved, January 12, 1839.
16. An act to locate a territorial road from Fort Madison, &c. Council. Approved, December 19, 1838.
17. An act to provide for the laying out and opening territorial roads. Council. Approved, December 29, 1838.
18. An act to prevent disasters on steam boats navigating the waters within the jurisdiction of this Territory. H. R. Approved, January 4, 1839.
19. An act to provide for the establishment of common schools. H. R. Approved, January 1, 1839.
20. An act to provide for the collection of demands against boats and vessels. H. R. Approved, December 20, 1838.
21. An act regulating the mode of taking depositions, and to provide for the perpetuation of testimony. Council. Approved, December 19, 1838.
22. An act organizing a board of county commissioners in each county of the Territory of Iowa. H. R. Approved, December 14, 1838.
23. An act to regulate ferries. H. R. Approved, December 20, 1838.
24. An act allowing and regulating writs of attachment. H. R. Approved, January 7, 1839.
25. An act to prevent and punish gambling. H. R. Approved, December 25, 1838.
26. An act to regulate interest on money, and to prevent usury. H. R. Approved, December 29, 1838.
27. An act to locate and establish a territorial road from Black Hawk, in Louisa county, via Mount Pleasant, to the southern boundary of Van Buren county, &c. Council. Approved, December 31, 1838.
28. An act concerning divorces. H. R. Approved, December 29, 1838.
29. An act to fix the time of the first session of the supreme court of the Territory of Iowa, and for other purposes. H. R. Approved, November 28, 1838.
30. An act relative to pleas in abatement and the abatement of suits by the death of parties. H. R. Approved, December 5, 1838.

31. An act defining the duties of county surveyors. H. R. Approved, December 25, 1838.
32. An act to punish the venders of unwholesome liquors and provisions. H. R. Approved, December 29, 1838.
33. An act relating to informations in the nature of quo warranto, and regulating the mode of proceedings thereon. H. R. Approved, December 20, 1838.
34. An act concerning debtors and their securities. H. R. Approved, December 21, 1838.
35. An act to make good and valid in law the acts of Robert G. Roberts, done and performed by him as a justice of the peace in and for the original county of Du Buque, in the Territory of Wisconsin, now the Territory of Iowa. H. R. Approved, December 14, 1838.
36. An act authorizing a special term of the district court in Muscatine county. H. R. Approved, January, 12, 1839.
37. An act to incorporate the Bloomington and Cedar river canal company. H. R. Approved, January 12, 1839.
38. An act to authorize William Meek & sons to erect a dam across the Des Moines river. H. R. Approved, January 7, 1839.
39. An act to authorize Benjamin Nye to build a dam across Pine river. H. R. Approved, January 12, 1839.
40. An act to authorize Joseph Williams and Charles Alexander Warfield to keep a ferry. H. R. Approved, December 14, 1838.
41. An act to authorize Timothy Fanning to establish and keep a ferry across the Mississippi, at the town of Du Buque. Council. Approved, with notes and explanations, December 14, 1838.
42. An act to authorize Ralph Letton to establish and keep a ferry across the Mississippi river at the town of Parkhurst. H. R. Approved, with notes and explanations, January 4, 1839.
43. An act to authorize J. S. Kirkpatrick to establish and keep a ferry across the Mississippi river at the town of Bellview. H. R. Approved with notes and explanations, December 17, 1838.
44. An act to authorize John H. Sullivan and Adrian H. Davenport to establish and keep a ferry across the Mississippi river at the town of Rockingham. H. R. Approved, with notes and explanations, December 17, 1838.
45. An act to authorize Aaron Usher and Thomas M. Groom to establish a ferry across the Mississippi river. H. R. Approved, with notes and explanations, December 29, 1838.

LIST OF JOINT RESOLUTIONS.

1. A resolution that the committee appointed under a joint resolution of both Houses to repair to the Miners' Bank of Du Buque and investigate the affairs, &c. of the same be allowed the sum of one hundred dollars each. Approved January 12, 1839.
2. A resolution that our delegate in Congress be requested to solicit and obtain an appropriation for the survey of all unsurveyed lands in the Territory to which the Indian title has been extinguished and that the Governor be requested to forward copies thereof to the Delegate, Speaker H. R. and President United States. Approved January 12, 1839.

3. A resolution empowering and authorizing the Secretary of the Territory to employ William Wagner to engrave a seal for the supreme court of the Territory; also, a seal for the United States district court in each county when organized, &c. and a seal for county commissioners court in each county and a seal for the probate courts in each county. Approved January 4, 1839.

4. A resolution that Clarke & McKenny publish the proceedings of H. R. and that Russell & Reeves print the laws passed at the present session, and enter into bonds with the Secretary of the Territory in the sum of \$5000, to deliver &c. Approved November 27, 1838.

5. A resolution concerning the form of the enacting clause of all laws passed by the Legislative Assembly of Iowa. Approved January 4, 1839.

6. A resolution approving of the seal of Territory. Approved January 4, 1839.

7. A resolution that Russell & Reeves furnish 2000 copies of the laws for the use of the Territory, and prefix to each copy the constitution of the United States,—the Declaration of Independence, the organic law of the Territory of Iowa, and the ordinance of 1787 respecting the north west territory. Approved January 4, 1839.

8. A resolution requesting the judges of the supreme court to furnish certain bills to form a code of laws and regulate practice &c. Approved January 4, 1839.

9. A resolution that the thanks of the Assembly of Iowa be presented through the Secretary of the Territory to Dr. O. Fairchild of Cincinnati, Ohio, for presents of maps to the library of the Territory. Approved January 4, 1839.

10. A resolution requesting the Secretary of the Territory to inform each House of the Legislative Assembly of all acts in his office which have received the Executive sanction, &c.

11. A resolution that a committee of both Houses of Legislative Assembly repair to examine into the condition of the Miners' Bank of Du Buque. Approved November 29, 1838.

LIST OF MEMORIALS.

1. A memorial praying Congress to appropriate seventy-two sections of the public lands in the Territory for the erection of a Penitentiary. Approved January 4, 1839.

2. A memorial praying Congress to grant to miners in this Territory a pre-emption right to ten acres of land upon which they may have discovered minerals since 1833, &c. Approved December 14, 1838.

A memorial that Congress provide for the defence of the inhabitants of the Territory three brass six pound cannon, one thousand Hall's carbines, with two thousand rifle pistols, &c. and one thousand short swords, and also a depot of arms and ammunition at some suitable place within the Territory, &c. Approved December 5, 1838.

A memorial that Congress make an appropriation of eight thousand dollars to reimburse Jeremiah Smith jr., for losses sustained by him in the destruction by fire of the buildings occupied by the

Legislative Assembly of Wisconsin in the winter of 1837, &c. Approved December 31, 1838.

On motion of Mr. Porter,

The amendments made by the Council to bill No. 23, H. R. file, entitled An act to divide the county of Henry and establish the county of Jefferson, were considered and concurred in.

Mr. Swan offered the following:

Whereas, a respectful request of this House was made to the Governor of this Territory for the information which has this day been communicated by the Honorable the Secretary; and whereas, Governor Lucas refused to give the same, but vetoed the resolution calling on his department, and leaving no way whereby such information could be received by this House excepting in the manner as above stated, and a resolution having passed the Council and House of Representatives for that purpose: Therefore,

Resolved, That Hon. William B. Conway, Secretary of the Territory, is entitled to the thanks of this House for the prompt and satisfactory manner in which he has answered the respectful request made in said resolution.

Which was adopted unanimously.

Mr. Bankson offered the following:

Whereas, it is now officially known to the Legislative Assembly, that Governor Lucas has been writing notes and explanations on sundry laws adopted by both Houses of the Legislature of Iowa in the usual forms of legislation:

And whereas, as the said notes and explanations relate to the judicial construction of said laws, they must be regarded as an unwarrantable encroachment on the rights of the judicial department of the government of this Territory as well as a direct insult and rude invasion of the rights of the legislature. If Governor Lucas has a right to endorse his own notions on one act of the legislature, he has clearly the right to do so on any act; and if on any act, he has by the same rule and on the same principle, a right to endorse his own notions on every act of the legislature. And if Governor Lucas has a right to anticipate the judicial construction of one law, why not by notes and explanations, provide for the construction of all laws, proclaiming in what respects they shall be void, and in what respects they shall be valid, and if Governor Lucas has a right to make short notes and explanations in the manuscript laws of this Territory, he has the same right to make long notes and explanations; and if he has a right to embrace one class of subjects in his charitable provisions for the judicial construction of laws, he has the same right to embrace any and every subject: Therefore,

Resolved, That Robert Lucas is "unfit to be the ruler of a free people," and that a select committee be appointed to prepare and report a memorial to the President of the United States, setting forth the leading facts upon which the Legislative Assembly found and establish their objections to the continuance of Robert Lucas as Governor of this Territory, and praying in strong terms for his immediate removal.

The question on the adoption of the preamble and resolution, being put, was determined in the affirmative.

The yeas and nays being called for, were as follow:

Yeas—Messrs. Bankson, Cox, Grimes, Hall, Nowlin, Porter, Roberts, Summers, Swan, Taylor, Toole and Wallace, Speaker—12.

Nays—Messrs. Bailey, Beeler, Blair, Brierly, Coop, Delashmutt, Frierson, Patterson, Parker and Price—10.

Messrs. Bankson, Hall, Summers, Taylor and Nowlin, were then appointed a committee to prepare said memorial.

Bill No. 136, entitled An act for the appointment of constables and defining their duties, was read a second time, and considered in committee of the whole, Mr. Bailey in the chair. The committee after a short time, by their chairman reported the bill without amendment. The report was concurred in, and the bill ordered to be engrossed for a third reading.

Bill No. 137, entitled A bill to provide for the the erection of a Penitentiary and establishing and regulating, prison discipline for the same, was read a second time and considered in committee of the whole, Mr. Beeler in the chair. The committee after some time reported progress and obtained leave to sit again.

Mr. Nowlin made a motion that the rule to print be suspended in reference to bill No. 142, entitled A bill supplementary to an act, for the location of the seat of government of Iowa.

Mr. Grimes, called for the yeas and nays on the motion, when the mover withdrew the same.

Bills No. 34, Council file, An act to incorporate the Iowa Mutual Fire Insurance Company.

No. 46, An act to authorize David W. Kilbourne to keep a ferry at the town of Montrose, were severally read a third time, passed, and titles agreed to.

Ordered, That the Council be informed.

Mr. Swan from the committee on enrollments, reported bill No. 127, and a memorial to Congress, for the benefit of the half breed tract, as correctly engrossed.

On motion of Mr. Hall,

James G. Edwards, was employed to print the bills read a first time to-day.

Bill No. 138, entitled A bill to district the county of Des Moines, for the election of county commissioners, was read a second time, and considered in committee of the whole, Mr. Coop in the chair. After some time the committee rose and reported the bill with amendments, in which the House concurred.

On motion of Mr. Grimes,

Ordered, That said bill be referred to the committee on townships and county boundaries.

The House then adjourned, until to 2 o'clock, P. M.

2 O'CLOCK, P. M.

Mr. Beeler, from the committee on enrollments, reported, as correctly enrolled, the following entitled acts:

An act confirming grants of property made for the encouragement of education, and for other purposes.

An act to organize the county of Linn, and to establish the seat of justice thereof.

An act to incorporate the Des Moines mill company, and for other purposes.

An act to provide for the appointment of district prosecutors, and defining their duties.

An act to provide for the collection of demands growing out of contracts for sales of improvements on public lands; and

An act to prescribe the mode of proving in courts of this Territory judgments rendered by justices of the peace in the several states.

The said acts were then duly signed by the Speaker, and the clerk directed to present them for the signature of the President of the Council.

Bill No. 139, entitled An act to provide for the sale of the land on which the seat of justice for the county of Muscatine is located, was read a second time, and considered in committee of the whole, Mr. Cox in the chair. After a short time, by their chairman, the committee reported the bill to the House with amendments; which were concurred in, and the bill ordered to be engrossed for a third reading.

Mr. Beeler obtained leave to introduce No. 143, entitled A bill to provide for the compensation of judges of probate.

Said bill was read a first time.

On motion of Mr. Taylor,

Bill No. 137, entitled A bill to provide for the erection of a Penitentiary, and establishing and regulating prison discipline for the same, was again considered in committee of the whole, Mr. Beeler in the chair. After some time the committee rose, and, by their chairman reported the bill with amendments, which were, by motion of Mr. Nowlin, separately concurred in.

The yeas and nays being called for, by Mr. Grimes, upon the concurrence of the House in the filling of the first blank of the third section with the words "Mount Pleasant," were as follow:

Yeas—Messrs. Bailey, Beeler, Blair, Brierly, Coop, Delashmutt, Grimes, Hall, Parker, Porter, Summers, Taylor, Temple and Wallace, Speaker—14.

Nays—Messrs. Bankson, Cox, Frierson, Hastings, Nowlin, Patterson, Price, Roberts, Swan, Thornton and Toole.—11.

On motion of Mr. Porter,

The second blank in the 3d line of the 3d section, was filled with the word "Henry," the first blank in the 4th line with the words "Mount Pleasant," and the remaining blanks in said 3d section with the words "Henry."

The bill was then ordered to be engrossed for a third reading.

Bill No. 142, entitled A bill supplementary to an act to locate the seat of government for Iowa, and for other purposes, was read a second time and considered in committee of the whole, Mr. Delashmutt in the chair. After a short time, the committee, by their chairman, reported the bill without amendment.

The following message from the Council was received by Mr. Wallace, their Secretary:

Mr. Speaker,—

The Council have passed No. 48, An act to establish the boundary

lines of the counties of Clayton, Fayette, Du Buque, Delaware and Buchanan.

Also bills of the House as follows:

No. 97, An act to regulate blacks and mulattoes, &c.

No. 125, An act relative to proceedings in chancery, with amendments. In all of which the concurrence of the House is requested.

The Council have also passed No. 75, H. R. file, An act concerning water crafts found adrift, and estray animals; and

No. 89, An act to allow and regulate the action of waste; without amendment.

The Council have receded from their amendments to the 14th section of bill No. 95, An act to provide for the appointment, and defining the duties of sheriffs.

I also herewith return the following acts and resolution, the same having been signed by the President of the Council, viz:

An act to prescribe the mode of proving in courts of this Territory, &c.

An act to incorporate the Des Moines mill company and for other purposes.

An act to provide for the collection of demands growing out of contracts, &c.

An act confirming grants of property made for the encouragement of education, &c.

An act to provide for the appointment of district prosecutors, and defining their duties.

An act to organize the county of Linn, and to locate the seat of justice thereof.

Resolution on the subject of forwarding and copying of memorials by the Secretary of the Territory.

The Secretary then withdrew, and the House, after having amended the said bill, No. 142, by motion of Mr. Cox, by inserting in the second line of the first section thereof, the words "to be called Iowa city;" between the words "two" and "on" concurred in the report of the committee.

The question was then put, "shall the bill be engrossed and read a third time?" and was determined in the affirmative.

The yeas and nays being called for, were as follow:

Yeas—Messrs. Bailey, Beeler, Blair, Brierly, Coop, Frierson, Hastings, Nowlin, Patterson, Parker, Price, Roberts, Swan, Taylor, Thornton and Toole.—16.

Nays—Messrs. Bankson, Cox, Delashmutt, Grimes, Hall, Porter, Summers, Temple and Wallace, Speaker—9.

Bill No. 127, entitled A bill to provide for the admission of attorneys and counsellors at law; and

Memorial to Congress, asking for a donation of land for educational purposes, in the half breed tract, were read a third time and passed, and title agreed to.

Ordered, That said bill and memorial be sent to the Council for concurrence.

The amendments of the Council to bills H. R. file, No. 97, 111 and 125, were read and severally concurred in.

Ordered, That the clerk acquaint the Council therewith.

Mr. Swan offered the following:

Resolved, By the Council and House of Representatives, that the Honorable the Council be invited to meet this House to-morrow at 11 o'clock, A. M. for the purpose of going into joint ballot, for the election of commissioners to locate the seat of government of Iowa.

Mr. Hastings offered an amendment to the resolution as follows: Strike out "to-morrow," and insert in lieu thereof "on Monday next:" Which amendment was agreed to, and the resolution adopted.

Mr. Beeler asked leave to introduce a bill to improve the police of the city of Burlington.

Leave was thereupon granted, and Messrs. Beeler, Patterson and Coop, were appointed a committee to prepare said bill.

Bill No. 48, Council file, "An act to establish the boundary lines of the counties of Clayton, Fayette, Du Buque, Delaware and Buchanan," was read a first time. The rule requiring the bill to be printed, was then, on motion, suspended, and the same read a second time and considered in committee of the whole, Mr. Frierson in the chair. The committee, after some time, rose, and by their chairman reported the bill without amendment, when,

On motion of Mr. Cox,

The bill was laid on the table.

Bill No. 32 Council file, entitled "An act to establish the boundary lines of Washington county, and for other purposes," was considered in committee of the whole, Mr. Grimes in the chair. After some time, the chairman obtained leave to sit again for the further consideration of said bill.

Bill No. 29, Council file, entitled "An act defining crimes and punishments," was read a second time, and considered in committee of the whole, Mr. Bankson in the chair. After some time, the committee rose, and by their chairman reported the bill with amendments. The House concurred in the report of the committee.

Mr. Cox obtained leave to introduce a bill, on to-morrow, to establish a territorial road from Davenport to Du Buque. Messrs. Cox, Swan and Roberts, were appointed a committee to prepare and report the same.

Mr. Porter obtained leave at a future day, to introduce A bill to provide for the sale of lands belonging to Henry county, for the purpose of erecting public buildings, &c. Messrs. Porter, Coop and Bailey were appointed a committee to prepare the bill.

Mr. Beeler, from the committee on enrollments reported that they did, on this day, present to the Secretary of the Territory, a joint resolution requesting him to forward to Washington city the memorials adopted by the Legislative Assembly.

Wednesday, January 16, 1839.

Mr. Roberts presented the petition of the board of commissioners of Cedar county, praying for the passage of a law at the present session of the Legislative Assembly, empowering the sheriff of said county to collect the tax levied for the year 1838.

Said petition was, on motion, referred to a select committee, consisting of Messrs. Roberts, Swan, Hastings, Porter and Nowlin.

Mr. Bailey presented the petition of inhabitants of Van Buren county, praying that the seat of justice of said county be located permanently by commissioners appointed for that purpose.

Mr. Hall presented a remonstrance of sundry citizens of the same county, praying the Legislative Assembly not to create a commotion in said county on the subject of the county seat thereof.

Which petition and remonstrance were, on motion, referred to the following select committee, viz:

Messrs. Bailey, Hall, Parker, Grimes and Summers.

Mr. Frierson, from the committee on townships and county boundaries, to which had been referred a bill to district the county of Des Moines for the election of county commissioners, reported a substitute therefor, No. 138, entitled a bill to district the several counties of this territory for the election of county commissioners; which was read a first time.

Mr. Roberts, from the select committee to which had been referred the petition of the county commissioners of Cedar county, reported bill No. 144, entitled an act for the relief of the sheriff of Cedar county; which bill was read a first time.

Mr. Porter, from select committee, reported bill No. 145, entitled an act to provide for the sale of the land located upon by the county commissioners of Henry county, &c.; which bill was read a first time.

Mr. Beeler from the joint committee on enrolments reported the following entitled acts, to have been yesterday presented to the Governor for his approval, viz:

An act confirming grants of property made for the encouragement of education and for other purposes.

An act to provide for the collection of demands growing out of contracts for sale of improvements on public lands.

An act to prescribe the mode of proving in courts of this Territory judgments rendered by justices of the peace in the several States.

An act to incorporate the Des Moines Mill Company and for other purposes.

An act to provide for the appointment of district prosecutors and defining their duties.

And an act to organize the county of Linn and to establish the seat of justice thereof.

Mr. Beeler, from the select committee appointed yesterday for that purpose, reported bill No. 146, entitled an act to improve the police of the city of Burlington. Read a first time.

Bill No. 140, entitled an act to incorporate the Keasauqua Lyceum, was read a second time and considered in committee of the

whole, Mr. Hastings in the chair. After a short time the committee rose, and by their chairman, reported the bill to the House without amendment; which was concurred in, and the bill ordered to be engrossed for a third reading.

Mr. Wallace, the Secretary of the Council, was introduced and delivered the following message:

Mr. Speaker,—

I am directed to inform the House of Representatives that the Council have passed bills H. R. file, of the following titles with amendments:

No. 66, an act to establish several seminaries of learning.

No. 110, an act to authorize John Gaines and others to keep a ferry, &c.

No. 114, an act to authorise James Leonard and others to establish and keep a ferry at the town of Charleston.

No. 128, an act to provide for the compensation of sheriffs therein named; and

No. 129, An act to authorize F. P. Blevings to establish and keep a ferry across the Mississippi river at the town of Nashville.

In all of which the concurrence of the House is requested. Also,

No. 106, an act to incorporate the Burlington Steam Mill company without amendment.

And then he withdrew.

Bill No. 141, entitled an act providing for the recording of town plats, was read a second time and considered in committee of the whole, Mr. Nowlin in the chair. The committee, by their chairman, reported the bill with amendments, in which the House concurred, and ordered that said bill be engrossed for a third reading.

Bill No. 143, entitled an act to provide for the compensation of judges of probate," was read a second time. On motion, the 16th and 18th rules of the House were suspended, in relation to said bill and the same read a third time, passed, and the title agreed to.

Ordered, That said bill be sent to the Council for concurrence.

Mr. Beeler, from the committee on enrolments, reported bills of the following titles, as correctly engrossed, viz:

No. 132, an act regulating enclosures.

No. 134, an act regulating the action of replevin.

No. 137, an act for the appointment of constables and defining their duties; and

No. 142, an act supplementary to an act to locate the seat of government for Iowa, and for other purposes.

Bill No. 138, entitled a bill to district the several counties in this Territory, for the election of county commissioners, (substitute) was read a second time and considered in committee of the whole, Mr. Hall in the chair. The committee, by their chairman, reported the bill with amendments, which were concurred in.

Mr. Temple then made a motion that the word "county," in the 3d section, be stricken out, and word "district" inserted; which motion was lost.

On motion of Mr. Grimes,

The 16th and 18th rules, in reference to said bill, were suspended, and the same read a third time, passed, title agreed to, and

Ordered to be sent to the Council for concurrence.

Bill, Council file, No. 29, entitled an act defining crimes and punishments, was read a third time, and passed.

Bills, H. R. file, No. 66, 110, 114, 128 and 129, as amended by the Council, were read and concurred in.

Ordered, That the Council be informed.

Bills, H. R. file, No. 132, An act regulating enclosures.

No. 134, An act regulating the action of replevin.

No. 137, an act for the appointment of constables and defining their duties, were severally read a third time, passed, and titles agreed to.

Ordered, that said bills be sent to the Council for concurrence.

Bill No. 142, entitled an act supplementary to an act to locate the seat of government for Iowa, and other purposes, being ready for a third reading, Mr. Nowlin made a motion that the bill lie on the table, to which motion Mr. Cox offered an amendment accepted by Mr. Nowlin, that the bill lie on the table until Thursday next.

The question was then put, "shall the bill lie on the table according to the amended motion of Mr. Nowlin?" and determined in the affirmative.

The yeas and nays being called for, were as follow:

Yeas—Messrs. Bankson, Beeier, Blair, Coop, Cox, Delashmutt, Grimes, Hall, Nowlin, Porter, Summers, Taylor, Temple and Wallace, Speaker—14.

Nays—Messrs. Bailey, Brierly, Frierson, Hastings, Patterson, Parker, Price, Roberts, Thornton and Toole—10.

On motion, the House adjourned until 2 o'clock, P. M.

2 O'CLOCK, P. M.

Mr. Beeier, from select committee, reported bill No. 147, entitled an act to incorporate the Burlington and Des Moines transportation company, which bill was read a first time and ordered to be printed by James G. Edwards.

Mr. Cox from like committee, reported bill No. 148, entitled an act to establish a territorial road from Davenport to Du Buque, as surveyed and laid out by John Foley and others.

On motion of Mr. Nowlin,

Bill No. 48, Council file, entitled an act to establish the boundary lines of the counties of Clayton, Fayette, Du Buque, Delaware and Bachanan, was taken from the table, when Mr. Taylor made a motion that the same be again laid on the table, which last motion Mr. Bankson moved to amend, so that the bill lie on the table, and be made the order of the day for Friday next, which amendment was accepted by Mr. Taylor, whose motion was then adopted.

On motion of Mr. Nowlin,

Bill No. 42, Council file, entitled an act to legalize the acts of county commissioners, read a second time and considered in committee of the whole, Mr. Patterson in the chair. After a short time the chairman of the committee reported the bill with an amendment, in which the House concurred, and ordered the same to a third reading.

On motion of Mr. Toole,

Bill No. 32, Council file, entitled an act to establish the boundaries of Washington county and for other purposes, was again considered in committee of the whole, Mr. Grimes in the chair. The chairman of the committee, after some time, reported the bill without amendment. The report of the committee was concurred in, and the question put "shall the bill be engrossed and read a third time?" and determined in the affirmative.

The yeas and nays being called for, were as follow:

Yeas—Messrs. Bailey, Beeler, Blair, Brierly, Cox, Grimes, Nowlin, Patterson, Parker, Porter, Price, Taylor, Thornton and Toole—14.

Nays—Messrs. Bankson, Coop, Delashmutt, Frierson, Hall, Hastings, Roberts, Summers, Swan, Temple and Wallace, Speaker—11.

Mr. Toole made a motion that the 16th and 18th rules be suspended in relation to said bill; which motion was not sustained.

The yeas and nays being called for, were as follow:

Yeas—Messrs. Bankson, Bailey, Beeler, Brierly, Cox, Grimes, Nowlin, Patterson, Parker, Porter, Price, Taylor, Thornton and Toole.—14.

Nays—Messrs. Blair, Coop, Delashmutt, Frierson, Hall, Hastings, Roberts, Summers, Swan, Temple and Wallace, Speaker.—11.

Mr. Nowlin, from the committee on enrolments, reported the following entitled acts as correctly enrolled; viz:

An act for establishing courts of probate.

An act to authorize Henry Eno and Co. to erect a dam across the Des Moines river: and

An act for the improvement of the breed of horses.

Said acts were duly signed by the Speaker and ordered to be sent to the President of the Council for signature.

On motion of Mr. Hastings,

The House then adjourned.

Thursday, January 17, 1839.

Mr. Swan offered the following:

Whereas, it is important that this House should be in possession of all the facts in relation to the disbursement of the public funds of this Territory, and whereas, difficulties have arisen respecting the same, therefore,

Resolved, By the House of Representatives that Hon. Wm. B. Conway, Secretary of the Territory, be respectfully requested to communicate to this House, any information or communications which he may have on the subject, that may not be considered of a confidential character. Which were adopted.

Mr. Summers from the committee on roads and highways, to which was referred a resolution instructing them to inquire into the

expediency of establishing a territorial road from Rochester, in Cedar county, to the county seat of Linn county, made report that the committee had had the subject under consideration, and believe it to be inexpedient and impracticable to locate said road.

The report was concurred in, and the committee discharged from any further consideration of the subject. Mr. Swan from the committee on enrollments, reported bills, Nos. 137 and 139, as correctly engrossed.

Mr. Nowlin offered the following:

Resolved, By the Council and House of Representatives of the Territory of Iowa, That the Hon. William W. Chapman, our delegate to Congress, be instructed to ask a donation of at least four sections of land, on which to locate the seat of government of the Territory of Iowa, to be selected by the commissioners appointed by the Legislative Assembly of Iowa, to locate the seat of Government of said Territory.

The resolution was adopted.

The assistant Secretary of the Council, Mr. Loop, being introduced, delivered the following message:

Mr. Speaker,—

I am directed to inform the House of Representatives, that the Council have passed the following bills of the House, with amendments.

No. 86, An act fixing the time and place for the annual meeting of the Legislative Assembly.

No. 76, An act to incorporate the town of Bloomington.

No. 137, An act for the election of constables, and defining their duties.

No. 134, An act regulating the action of replevin.

No. 124, An act to authorize Hiram C. Smith and Cordell to erect a dam across Skunk river.

The Council have also passed bill No. 50, Council file, An act in relation to bonds and other securities.

In all of which the concurrence of the House is requested.

The Council have also passed the following bills of the House without amendment:

No. 133, An act to district the Territory of Iowa into electoral districts and apportion the members of the House of Representatives in the same.

No. 142, An act to provide for the compensation of judges of probate.

The Council have concurred in preamble and resolution of the House, in relation to the drafting and presentation of bills to the Legislative Assembly, by the judges of the supreme court.

The Council insist upon their amendments to No. 83 H. R. file, in relation to sheriffs' mileage, constables' mileage, and witnesses' fees; per diem pay of petit jurors; and have receded from their amendment in relation to the sheriffs' per centage; and have appointed Messrs. Hempstead, Clarke and Hepner, a committee of conference in relation to said disagreeing vote.

The Council have concurred in amendments made by the House to bill No. 29, Council file, viz: The first amendment to the 19th sec-

tion, and the amendment to the 29th section; and have disagreed to the second amendment to the 19th section, and the amendment made to the 43d section: and have appointed Messrs. Parker, Wittlesey and Clarke, a committee of conference in relation thereto.

I also herewith return "An act for the improvement of the breed of horses."

"An act to authorize Henry Eno and others to erect a dam across the Des Moines river;" and

"An act for the establishing courts of probate;" the same being signed by the President of the Council.

And then he withdrew.

Mr. Bailey, from the select committee to which had been referred a petition and remonstrance on the subject of the seat of justice of Van Buren county, reported bill No. 149, entitled "An act providing for the re-location of the county seat of Van Buren county." Read a first time.

On motion of Mr. Swan,

Ordered, That a committee of conference be appointed to act in conjunction with the one appointed by the Council in relation to the disagreeing vote of the two Houses on amendments to bill No 83, entitled "An act concerning costs and fees." Messrs. Swan, Cox and Coop, were appointed said committee.

On motion of Mr. Hastings,

Ordered, That a like committee be appointed to confer with the one from the Council, in relation to bill No. 29, Council file, entitled "An act concerning crimes and punishments." Messrs. Hastings, Nowlin, Thornton and Temple, were appointed said committee.

Bill No. 144, entitled "An act for the relief of the sheriff of Cedar county," was read a second time, and considered in committee of the whole, Mr. Parker in the chair. The committee, by their chairman, reported the bill without amendment. The House concurred in the report; and

On motion of Mr. Roberts,

Ordered, That the 16th and 18th rules be, for the time being, suspended.

Said bill was then read a third time, passed, and title agreed to, and

Ordered to be sent to the Council for concurrence.

Bill No. 146, entitled "An act to improve the police of the city of Burlington," was read a second time and considered in committee of the whole, Mr. Porter in the chair. The committee, by their chairman, reported the bill with an amendment, in which the House concurred, and

Ordered, That the bill be engrossed for a third reading.

Bill No. 147, entitled "A bill to incorporate the Burlington and Des Moines Transportation Company," was also read a second time, and considered in committee of the whole, Mr. Roberts in the chair. The committee, by their chairman, reported the bill with amendments which were read and concurred in.

Mr. Grimes made a motion, that the rules be suspended, the bill read a third time, and put upon its passage.

Mr. Nowlin proposed an amendment to the bill.

The chair having decided that the motion of Mr. Grimes should have precedence, the question on the same was put and negatived.

The yeas and nays being called, were as follow:

Yeas—Messrs. Beeler, Delashmutt, Grimes, Hall, Patterson, Porter, Summers, Temple, Toole and Wallace, Speaker—10.

Nays—Messrs. Bailey, Brierly, Coop, Cox, Frierson, Hastings, Nowlin, Parker, Price, Roberts, Swan, Taylor and Thornton—13.

Mr. Nowlin then offered the following amendment:

As an additional clause to the 18th section, insert as follows:

"Nor to loan any money except gold and silver."

Mr. Temple made a motion to amend the amendment, by adding to the same the following: "Or the notes of specie paying banks;" which was agreed to.

The question on the adoption of the amendment as amended, was put, and determined in the affirmative.

Mr. Frierson made a motion to amend the 4th line of the 19th section, by striking out after the word "not," the word "less," and inserting in lieu thereof the word "more." Agreed to.

Mr. Nowlin moved that the following be inserted as the 24th section of the bill:

"That the foregoing act shall in all respects be construed benignly and favorably as other bank charters." Not agreed to.

Mr. Roberts moved to amend the 5th line of the 18th section, by striking out "twelve;" and inserting "ten" instead thereof. Lost.

On motion, the House adjourned to 2 o'clock, P. M.

2 O'CLOCK, P. M.

Mr. Grimes made a motion that the 16th and 18th standing rules of the House be suspended, in relation to bill No. 147, entitled An act to incorporate the Burlington and Des Moines Transportation company; which motion was agreed to.

Said bill was then read a third time, and Mr. Bankson, on account of absence this morning, excused from voting on the passage of the same.

The question was then put, "shall the bill pass?" and determined in the affirmative.

The yeas and nays being called for, were as follow:

Yeas—Messrs. Beeler, Blair, Delashmutt, Frierson, Grimes, Hall, Hastings, Porter, Roberts, Summers, Taylor, Temple, Thornton, Toole and Wallace, Speaker—15.

Nays—Messrs. Bailey, Brierly, Coop, Cox, Nowlin and Swan—6.

The title of the bill was then agreed to.

Ordered, That it be sent to the Council for concurrence.

The Speaker announced a message from his Excellency the Governor of the Territory; which was read, and is as follows:

EXECUTIVE DEPARTMENT, IOWA TERRITORY,
January 17, 1839. }

To the Honorable House of Representatives of the Legislative Assembly:

GENTLEMEN—I have examined the bill submitted for my consideration, entitled "An act to establish the seat of government of the

Territory of Iowa, and for other purposes," and concur in its general provisions, particularly those parts that establish the seat of government in the central county of Johnson and provide for the meeting of the Legislative Assembly at Burlington, until public buildings are erected at the seat of government for their accommodation; but I find the bill defective in its details.

It authorizes the commissioners therein provided for, to enter upon the United States land that is yet unsurveyed; to lay out 640 acres in town lots, streets and alleys; to agree upon a plan for the public buildings; to issue proposals; and immediately thereafter to contract for erecting said buildings without delay; but contains no provisions to obtain the consent of Congress to locate the seat of government on their lands, or to obtain a grant or title from the government, to the land upon which the seat of government may be located.

There is no provision in the bill for the sale or disposition of the lots in the town directed to be laid out at the seat of government, or to dispose of, in any way, the avails of said town; notwithstanding the commissioners are directed to proceed to erect public buildings.

The bill declares that the Governor of the Territory shall officiate as Treasurer, and imposes on him duties, totally incompatible with the duties of the Executive of the Territory.

It provides for the appointment of commissioners by joint ballot of the Council and House of Representatives, which is a mode of appointment entirely unprovided for by the organic law.

With the foregoing exceptions, I approve of the bill, and am willing that this communication may be considered as notice of such approval.

I shall, however, retain the bill in my possession for the present, and should the Legislative Assembly, during its present session, pass an explanatory supplement, remedying the defects above alluded to, the whole subject will meet with my unqualified approval.

Respectfully, your ob't servant,
ROBERT LUCAS.

On motion of Mr. Frierson,

Ordered, That the foregoing message, and bill No. 142, entitled An act supplementary to an act to establish the seat of government of the Territory of Iowa, and for other purposes, be referred to the committee on territorial affairs.

Bills, Council file, No. 32, entitled An act to establish the boundary lines of Washington county, and for other purposes; and

No. 42, entitled An act to legalize the acts of county commissioners, were taken up and read a third time, when Mr. Roberts made a motion that the passage of bill No. 32, be indefinitely postponed, which motion was disagreed to.

Said bills were then passed and titles agreed to.

On motion of Mr. Nowlin,

Ordered, That the resolution inviting the Council to meet this House for the purpose of balloting for the election of commissioners to locate the seat of government, on Monday next, be rescinded.

Ordered, That the Council be informed.

On motion of Mr. Nowlin,

Resolved, That a message be sent to the Council inviting that body to meet the members of the House of Representatives, in the representative hall, this evening at 7 o'clock, to go into an election for three commissioners to locate the seat of government for the Territory of Iowa.

Bills, H. R. file, No. 136, entitled A bill for the erection of a penitentiary, &c. and

No. 139, entitled A bill to provide for the sale of the land on which the seat of justice of Muscatine county is located; were severally read a third time, passed, and titles agreed to, and ordered to be sent to the Council for concurrence.

On motion of Mr. Summers,

Bills, H. R. file, No. 44, entitled An act concerning the seat of justice of Scott county, and

No. 74, entitled An act providing for the organization of the county of Clinton, were taken from the table and re-committed.

On motion of Mr. Coop,

The resolution prohibiting the introduction of new business after the 16th inst., was for the time being suspended.

Mr. Coop then obtained leave to introduce A memorial to Congress, asking for the establishment of a post route from the Mississippi river, via Mount Pleasant, to the county seat of Jefferson county. Said memorial was read a first time, and is as follows:

To the Honorable the Senate and House of Representatives of the United States, in Congress assembled.

Your memorialists would respectfully represent to your honorable bodies, that there is a vast extent of fertile country, lying between Mount Pleasant, in the county of Henry, and the line of the present purchase from the Indian tribes, which is comparatively thickly settled with an enterprising and prosperous class of men, who have emigrated from the different states—that that country is fast filling up—that the facilities of communication are few, and the inhabitants almost entirely cut off from all foreign intelligence.

Your memorialists would further represent to your honorable body, that a county has been recently formed, called "Jefferson," comprising that country, and that their nearest post office is at Mount Pleasant.

Your memorialists would therefore pray your honorable body to extend the present post route from the Mississippi river, to Mount Pleasant, on through the county of Henry, and to the county seat of Jefferson county, a distance of thirty miles, and that a post office be established at that place. And also from the town of West Point in Lee county, by the way of Salem in Henry county, to the said county seat of Jefferson.

The Speaker announced the following communication from the Hon. Wm. B. Conway, Secretary of the Territory, viz:

SECRETARY'S OFFICE, TERRITORY OF IOWA, }
January 17, 1839. }

To the Honorable Wm. H. WALLACE, Speaker of the House of Representatives.

SIR.—The Secretary of the Territory has the honor to acknowledge the receipt of a resolution adopted by the House of Representatives, and transmitted to this Department on this day, requesting the Secretary to communicate to the House, any information or communications which he may have, on the subject of the disbursement of the public funds of this Territory, provided the same be not of a confidential character.

The correspondence of the Secretary of the Territory, on this subject, has been

1. With the Honorable the Secretary of the Treasury of the United States.
2. With his Excellency the Governor of this Territory.
3. With gentlemen from whom the Secretary has endeavored to negotiate loans to pay the balance which will be due on the expenses of the current year.
4. With the Hon. Wm. W. Chapman our delegate in Congress, in reference to the forthcoming Congressional appropriation—the deficit of this year, and the estimate of the expenses of the next.

The correspondence, thus classified, is entirely incomplete, (except that which the Secretary had the honor to interchange with his Excellency Governor Lucas,) and as it is not understood that the unsettled accounts of the Secretary range within the intendment of your request, he apprehends that any attempt to comply with a resolution, which does not embrace specific requirements, would be unsatisfactory to the Honorable House of Representatives; attended, however, by an expression of his earnest desire to comply with requests of the Legislative Assembly, when their tangibility may indicate the extent to which compliance may be proper, on his part, and desirable on theirs; repeating at the same time, an assurance of the promptitude and pleasure with which the Secretary will always recognize such demands, and in conclusion, expressing the high consideration with which he has the honor to be and remain your very obedient and respectful servant,

WM. B. CONWAY,
Secretary of the Territory.

Which communication was read and referred to the committee on Territorial affairs.

On motion of Mr. Swan,

Resolved, That the Hon. Secretary of this Territory be requested to transmit to this House forthwith his correspondence with Governor Lucas, in relation to the payment, disbursement, or expenditure of the public money on any part thereof (which has not already been communicated) provided said correspondence be not of a confidential character.

Bill No. 145, entitled An act to provide for the sale of lands located upon by the county commissioners, of Henry county, for the benefit of said county, in erecting public buildings, was read a sec-

ond time, and considered in committee of the whole, Mr. Summers in the chair. The committee by their chairman, reported the bill without amendment. The House concurred in the report, and

Ordered, That the 16th and 18th rules be temporarily suspended. Said bill was then read a third time passed, title agreed to, and Ordered to be sent to the Council for concurrence.

On motion of Mr. Summers,

Bill No. 107, entitled An act to repeal the half breed law, was taken up, read a second time, and on motion of Mr. Brierly, indefinitely postponed.

Mr. Beeler from the committee on enrollments, reported the following entitled acts, to have been this day presented to the Governor for his approval, viz:

An act to authorize Henry Eno & Co. to erect a dam across the Des Moines river.

An act for the improvement of the breed of horses, and

An act for the establishment of courts of probate.

On motion of Mr. Hastings,

Bill No. 149, entitled An act to re-locate the county seat of Van Buren county, was read a second time.

Mr. Hall then made a motion that the bill be committed to a select committee, which motion was sustained.

The yeas and nays being called for, were as follow:

Yeas—Messrs. Bankson, Beeler, Cox, Delashmutt, Grimes, Hall, Nowlin, Porter, Roberts, Summers, Swan, Temple and Wallace, Speaker—13.

Nays—Messrs. Bailey, Brierly, Coop, Frierson, Hastings, Patterson, Parker, Price, Taylor, Thornton and Toole—11.

The chair thereupon appointed Messrs. Hall, Bailey, Swan, Porter and Bankson, said select committee.

On motion of Mr. Bailey,

Four additional members were placed on the same, viz: Messrs. Temple, Coop, Beeler and Blair.

Mr. Beeler from the joint committee on enrollments, reported as correctly enrolled the following entitled acts, viz:

An act to authorize Francis P. Blevings, to keep a ferry, &c. and

An act to provide for the appointment and duties of sheriff; Also, as correctly engrossed, a bill to incorporate the Keasauqua Lyceum.

The said acts were signed by the Speaker, and ordered to be presented for the signature of the President of the Council.

On motion the House adjourned.

Friday, January 18, 1839.

Mr. Porter, by leave, presented a petition on the subject of the erection of a dam by Jehu Carter, across Big Cedar Creek, in Henry county.

Said petition was referred to a select committee consisting of Messrs. Porter, Coop, Parker, Cox and Roberts.

On motion of Mr. Beeler,

Ordered. That the resolution prohibiting the introduction of new business after the 16th instant, be for the time being suspended.

Mr. Beeler then obtained leave to introduce bill No. 150, entitled an act supplementary to an act to incorporate the Bloomington and Cedar river canal company. Said bill was read a first time.

On motion, the resolution above alluded to was again temporarily suspended, when Mr. Grimes obtained leave to introduce bill No. 151, entitled an act concerning seals. Read a first time.

Mr. Nowlin, from the committee on territorial affairs, to which was yesterday referred bill No. 142, an act supplementary, &c. together with the Executive communication in relation to an act for the location of the seat of government, &c. reported said bill back to the House with amendments.

On motion of Mr. Nowlin,

Resolved, That the Assistant Clerk of the House of Representatives be allowed the sum of five dollars per diem for his services.

On motion of Mr. Grimes,

The resolution requiring bills to be printed previous to their second reading, was suspended in reference to bill No. 151, entitled An act concerning seals, and the bill read a second time and considered in committee of the whole, Mr. Taylor in the chair. The committee, by their chairman, reported said bill without amendment.—The House concurred in the report of the committee, and ordered the bill to be engrossed for a third reading.

Mr. Swan, from the joint committee on enrolments, made report as follows:

The joint committee on enrolments have examined the following acts, to wit:

An act relating to the office of recorder of deeds.

An act concerning the construction of statutes.

An act to authorize David W. Kilbourn to keep a ferry at the town of Montrose; and have compared the same with the engrossed bills and find them correctly enrolled.

Which acts were then signed by the Speaker, and the clerk directed to present them for the signature of the President of the Council.

Mr. Bankson, from the majority of the select committee, to which was yesterday referred bill No. 149, entitled an act for the relocation of the county seat of Van Buren county, made report; which report was, on motion of Mr. Taylor, laid on the table.

Mr. Bailey, from the minority of the same committee, reported said bill, No. 149, back to the House.

Mr. Hastings, from the committee of conference, appointed yesterday to act in conjunction with a like committee on the part of the Council, in relation to bill No. 29, H. R. file, made report that the committee had receded from the amendments of the House to said bill. The report was concurred in.

Mr. Swan, from the committee of conference appointed yesterday, to confer with a like committee on the part of the Council, made

report that the committee had performed the duty assigned them, and concur in the amendment of the Council to Bill No. 83, entitled An act concerning costs and fees.

Mr. Bankson made a motion that the House concur in the report of said committee of conference; which motion was agreed to.

Mr. Grimes having called for the yeas and nays, they were as follow:

Yeas—Messrs. Bankson, Bailey, Beeler, Coop, Cox, Frierson, Hastings, Nowlin, Patterson, Parker, Roberts, Swan, Temple, Thornton, Toole and Wallace, Speaker—16.

Nays—Messrs. Blair, Brierty, Delashmutt, Grimes, Hall, Porter, Price, Summers and Taylor—9.

Mr. Swan, from the committee on enrolments, reported bills No. 141, entitled an act for the recording of town plats, and No. 116, entitled an act to improve the police of the city of Burlington, as correctly engrossed.

Mr. Summers, from the select committee to which was recommended bill No. 44, H. R. file, entitled an act concerning the seat of justice of Scott county, reported the same back to the House with amendments.

Mr. Porter, from the select committee to which had been referred a petition praying that a privilege to erect a dam, &c. be granted to Jehu Carter, reported bill No. 152, entitled an act authorising Jehu Carter to erect a dam across Big Cedar, in Jefferson county. Said bill was read a first time, the rule requiring it to be printed, suspended, and the same was read a second time, and considered in committee of the whole, Mr. Temple in the chair. The committee, by their chairman, reported the bill with amendments, which were concurred in.

On motion of Mr. Porter,

Rules 16 and 18 were suspended in relation to said bill, and the same passed and the title agreed to.

Ordered that said bill be sent to the Council for concurrence.

On motion of Mr. Grimes,

Bill No. 40, Council file, An act to provide for the appointment of notaries public, and to prescribe their duties, was taken from the table.

Mr. Grimes then made a motion that the bill be amended by adding the following as the 15th section thereof; to wit:

“That the notaries public in the several counties in this territory shall have full power and authority to administer oaths and take acknowledgments of deeds and powers of attorney, as the same may, by the usage of the law, be administered by justices of the peace.

The bill was then ordered to a third reading.

The Speaker announced a communication, furnished in accordance with a resolution of yesterday, from the Hon. Wm. B. Conway, Secretary of the Territory, enclosing the correspondence of that officer with his Excellency Governor Lucas, on the subject of expenditures of the public money: which communication and correspondence were read, and are as follow:

SECRETARY'S OFFICE,
TERRITORY OF IOWA, JAN. 17, 1839. }

To the Honorable the Speaker of the House of Representatives.

SIR: In compliance with the "forthwith" which I have just had the honor to receive from the House of Representatives, I transmit herewith, a copy of my correspondence with his Excellency Governor Lucas, touching certain expenditures of, or demands on, the "public money;" and whilst I deplore the existence of the relations between the Executive and this Department, disclosed by the correspondence now submitted, in accordance with your resolution, still a due regard for my own character, compels me to declare that I feel no unmanly regrets in reviewing the course which duty and principle compelled me to pursue throughout these "troublesome times." This correspondence was the *point of separation* between the Governor and the Secretary; and it is gratifying to the latter to know, that they differed in reference to a PRINCIPLE from which the Secretary can never consent to recede.

With high regard, your very obedient

and respectful servant,

WM. B. CONWAY,

Secretary of the Territory.

EXECUTIVE OFFICE, IOWA TERRITORY,
DEC 26TH, 1838. }

WM. B. CONWAY, Secretary of Iowa Territory,

SIR: I wish you to inform me distinctly the reason why you refused to pay for the furniture put into the Executive office out of the appropriation made by Congress.

Whether you consider the Executive office separate and distinct from that of the Secretary of the Territory, and if so, your reasons for this conclusion.

I would also wish to know whether you do, or do not intend to discharge the duty required of you by the organic law, relative to recording the acts and proceedings of the Governor in his Executive department? Nothing of this kind has as yet been done by you, and I think it is time that this business was commenced. If it is not your intention to perform your duty, I wish to know it, that I may make a representation to the proper department at Washington. I wish an explicit and *unequivocal* answer to the above.

Very respectfully,

ROBERT LUCAS.

SECRETARY'S OFFICE,
TERRITORY OF IOWA, DEC. 29, 1838. }

To His Excellency ROBERT LUCAS, Governor of Iowa.

SIR, Your communication of the 26th was duly received, by the hand of Mr. Parvin, and to which an answer would have been immediately returned, if the difficulty of framing a suitable reply had not been almost insurmountable.—I must confess, Sir, that I have never been placed in a position, so entirely undesirable, as that into

which I have been driven, by your unwelcome and unexpected interrogatories.

If I were to acknowledge the right you have assumed, and which your Excellency appears to be disposed to exercise, in a spirit by no means destitute of rigor, I would be compelled to seek refuge in *servility*; and hence it is proper for me to say, that *every* other expedient must have been resorted to without success, before I could consider terms of intercourse so incompatible with my character and principles. And yet if I were to reply to your extraordinary questions, in the same temper in which they are propounded, it might be construed into a want of that respect, to which your advanced age, and high station indicate a claim; and this claim I am not inclined to regard with either levity or indifference: And therefore, whilst my respect for your age and station is frankly avowed, candor compels me to guard you against the error, that would give a more comprehensive meaning to this acknowledgment.

To surrender to your Excellency, the rights pertaining to my station, as Secretary of this Territory, and thus impart a *new* and unwarranted character to our official relations, by a submissive acquiescence in your unauthorized demands, is not only forbidden by the voice of duty, but also opposed by my personal obligations, and greatly at variance with that proper pride which threats have no power to conciliate.

But, without intending to recognize the right which you have been graciously pleased to assume, in your communication of the 26th of December, I shall, nevertheless, reply to your inquiries, as indicative of a disposition that would not evade responsibility, whilst it neither fears nor invites aggression:—And this course is sanctioned by other reasons, not less forcible than the requirement embodied in your Excellency's imperative "wish."

First. You wish me to state, "distinctly, the reason why I refused to pay for the furniture put into the Executive office, out of the appropriation made by Congress?"

To which I have the honor to reply, that I did not feel authorised to meet the demand, by any provision, or reasonable construction of the organic law; and I told Mr. Evan Evans (the furniture man) that the instructions of the Treasury Department, or a law of the Territorial Legislature, should *precede* the payment of the bill, out of the funds in my hands. That claims of this kind were not of that class of "contingent expenses," or "incidental" charges which I am authorised to pay, is a belief which acquires the force of conviction, when that provision, in the 11th section of the organic law, is duly regarded, which creates a "contingent fund" of \$350 00 "to be expended by the Governor." For the manner in which this sum is or shall be expended, the Executive may not be obliged to render a formal account, yet still integrity must fail to engender a doubt, as regards its proper application. The Secretary believed, and still believes, that the bill presented by Mr. Evans, should have been paid out of the fund for the contingent expenses of the Territory, or out of the private coffers of the Executive himself; and this belief receives the fullest confirmation, from a reference to the constitutional argument addressed by your Excellency, to this de-

partment, on the 6th inst., and to which your attention is very respectfully invited.

If there be error in the Executive opinion, which is now the subject of allusion; without implicating the rectitude of your intentions, no substantial advantage can be sought therefrom; and, particularly, whilst no evidence has been presented, which would stamp that opinion with the impress of acknowledged error. And, at all events, there could have been no impropriety in awaiting the instructions of the Treasury Department, or the enacting of a territorial statute, allowing, or providing for, the payment of the Executive expenses.

If it were apparent that the sum of \$350 00, mentioned in the 11th section of the organic law, and subject entirely to your control, had been included in the larger amount, to be disbursed by me, then would bills, to that amount, (\$350,) have been cheerfully paid, or the money would have been deposited in your hands.

But, it is not pretended that you are to receive this money from the Secretary of the Territory, but from the Treasury Department of the United States, and you were understood to say, long before the Secretary received his drafts, that you had written, or otherwise applied for the contingent fund to which you are entitled; and it should be well known, that the Secretary of the Territory cannot, and will not, allow any person whatever to sponge on the funds of the United States, which have been placed in his hands for specific purposes.

The foregoing is intended as "an explicit and unequivocal answer" to your first interrogatory; from which you are authorized to conclude, that the Secretary, in refusing to pay your private bills out of the public money, in the absence of a legal provision—in the absence of instructions from the proper department; and without the pretext afforded by implication of law, was governed by delicate considerations of integrity; without pausing to calculate the advantages which might result from an unscrupulous compliance with your "wishes,"—or the inconvenience that might result from prompt obedience to the higher commands of duty.

Secondly. For reasons not easily comprehended, your Excellency is pleased to propose, as a second inquiry,—“Whether I consider the Executive office separate and distinct from that of the Secretary of the Territory, and if so, you wish to hear my reasons for this conclusion.”

Without designing to shrink from that severity of investigation which is not satisfied with conclusions, but wishes to pry into and judge of the force and sufficiency of the facts and arguments on which they are founded, I have the honor to state in reply, that I do consider the office of the Executive, and that of the Secretary of the Territory, as “separate and distinct;” and my “reasons” for this conclusion may be found in the distinctions taken between the respective powers, duties, and responsibilities of the Governor and the Secretary, in the provisions of the organic law. This is my conclusion, and these are my reasons, which you will please to consider as “an explicit and unequivocal answer” to your second interrogatory.

Thirdly. The third, in the order of your Excellency's "wishes," is to know: "whether I do, or do not, *intend* to discharge the duty required of me, by the organic law, relative to recording the acts and proceedings of the Governor, in his Executive Department;" and you are also pleased to say, that "nothing of this kind has been done by me;" and moreover, your Excellency "thinks it is time that this business was commenced."

In reply to this *cross* examination, I have the honor to inform your Excellency, that *all* "the acts and proceedings of the Governor, in his Executive Department," which have been transmitted to this office, received prompt attention, and these, together with those that may be transmitted hereafter, will be disposed of, in strict accordance with the provisions of the act of Congress.

Whether these papers shall be, or shall not be, transmitted to this office, is a question for the grave consideration of your Excellency; for it will not be presumed that the Secretary of the Territory, has a right, or if granted could consent to exercise the right of searching the Executive pockets, or rummaging the Executive office, for "acts and proceedings;" nor is it at all understood or admitted, that the Secretary of the Territory should "live, and move and have his being," in the Executive presence, and be always ready, on the spot, to "record" that portion of the Executive wisdom which may be permitted to escape through the medium of conversation, with *mister parvin*, or even with men of better breeding.

It is not believed that Congress intended to inflict duties of this kind, on the Secretary of the Territory, and this conclusion derives ample support from the provisions of the territorial charter of Iowa. If your Excellency will only consent to comply with your part of the matter, and TRANSMIT TO THIS OFFICE, "the acts and proceedings of the Governor, in his Executive Department," then will they be "recorded," and transmitted, by me, to the President of the United States, and to Congress, as the law requires.

Fourthly. In conclusion, your Excellency is graciously pleased to say, that "if it is not my *intention* to perform my duty, *you* wish to know it, that you may make a representation to the proper Department at Washington."

Sir, when the disposition, disclosed in this extra Executive enquiry, is viewed, in connexion with the *cause* which occasioned its manifestation,—that is to say, my refusal to recognize a claim "destitute of legal authority," and presented by a person who, in that instance, was "legally unknown," your *threat* is divested of all its terrors, and nothing but your advanced age, and high station, could prevent me from hurling it back with defiance and contempt.

I am, by no means, unacquainted with the character and extent of my duties and rights, nor have I failed to distinguish the boundaries by which they are circumscribed.

As the disbursing officer of the general government, in this territory, I am charged with the execution of a responsible and delicate *trust*; nor can you, sir, or any other person, adduce *one fact*, or the shadow of a fact, tending to prove that I have not performed my official duties, with scrupulous fidelity; and it was not UNTIL this fidelity interfered with your unauthorised demands on the pub-

lic money, that I was called upon to *answer* your insulting enquiries. And time, I trust, will convince your Excellency, that what cannot be obtained from my sense of justice, my views of duty, or my apprehensions of right, can never be extorted by an appeal to my *fears*.

It must be known to your Excellency, that I am always in my office;—for the fact is so. I am in my office night and day, and always in the performance of my duty;—either paying out money, adjusting my public accounts, attending to my correspondence, or preparing the laws for publication; and although there has been sickness in my family, I have not left my station here, for one single hour, since the commencement of the session. There is not, I repeat it, sir, a single official act of mine, to which exception may be *fairly* taken, unless it be the style and tone of a communication to the Legislative Council, on the 24th of November, occasioning a difficulty which is now happily adjusted; and into that difficulty, I was introduced, in the first instance, by officious interference with my department, on the part of your Excellency, and your man *parvin*.

That your Excellency has always mistaken the character of our official relations, is a fact to which my attention was painfully attracted, at an early period of our acquaintance; and if I had believed that the office of the Secretary of the Territory was subject to your control, and offensive supervision, justice to myself requires me to say, that all its honors and emoluments would have been promptly surrendered at our second interview:—And if I could suppose that the President of the United States, could be induced to sustain you, in confounding *all* the departments of the territorial government of Iowa, with your extravagant assumptions of Executive power, then, sir, the next mail would convey the assurance of an unalterable desire to tender my resignation; and this territorial government might, under your absolute direction, pursue the downward tenor of its way, as fast as the genius of gravitation could carry it.

How far the efforts of the Secretary have contributed to organize and sustain this government, it is neither his wish, nor his province to determine; but that it has encountered any obstructions, inconvenience, or evils from his delinquencies, or indiscretion, is most emphatically denied. And the mildness, docility, and gentleness, which characterized his intercourse, with your Excellency, up to the day on which he politely declined the payment of Mr. Woods' bill, was certainly not among the least difficult of social achievements; nor could any thing less exceptionable than a demand involving a principle, to which duty and inclination obliged the Secretary to adhere, have been deemed sufficient to authorise the perspicuity disclosed in this communication,—because your age and station import claims to respect, which tyranny itself must fail to invalidate.

Your Excellency can now make "representations to the proper

department at Washington," and misrepresentations, should any be made, SHALL recoil on the head of their author.

With due consideration, I have the honor to remain,

Your obedient servant,

WM. B. CONWAY,

Secretary of the Territory of Iowa.

On motion of Mr. Nowlin,

Ordered, That James G. Edwards be employed to print 400 copies of the foregoing communications.

The assistant Secretary of the Council, Mr. Loop, being introduced, delivered the following message:

Mr. Speaker,—

I am directed to inform the House of Representatives, that the Council have passed bills of the H. R. of the following titles with amendments:

No. 41, An act subjecting real and personal estate to execution.

No. 92, An act establishing certain territorial roads.

No. 99, An act providing for, and regulating general elections in this territory.

The Council have also passed No. 69, H. R. file, An act regulating the publication and distribution of the laws and journals of the Legislative Assembly of the Territory of Iowa, without amendment. In all of which the concurrence of the House is requested.

I also, herewith, present for your signature, the following bills of the Council, to wit:

An act to authorize the appointment of public administrators in the several counties in this territory, and to prescribe their duties.

An act concerning insane persons.

An act to regulate the mode of petitioning the Legislature in certain cases.

An act to authorize Robert Wilson, his heirs or assigns, to erect a dam across Skunk river.

An act to incorporate the Plymouth Mill and Manufacturing company.

An act concerning the construction of statutes.

An act to authorize David W. Kilbourn to keep a ferry across the Mississippi river at the town of Montrose; and

An act relating to the office of recorder of deeds, &c.

The secretary then withdrew, and said acts were thereupon signed by the Speaker.

Bill No. 50, Council file, entitled an act in relation to bonds and other securities, was taken up and read a first time.

Bill No. 148, entitled an act to establish a territorial road from Davenport to Du Buque, as surveyed and laid out by John Foley, &c. was read a second time, and considered in committee of the whole, Mr. Toole in the chair. The committee, by their chairman, reported the bill without amendment. The House concurred in the report, and,

On motion of Mr. Grimes,

Ordered, That said bill be referred to a committee of one from each electoral district.

Messrs. Grimes, Cox, Summers, Toole, Taylor, Bailey, Porter and Roberts, were appointed said committee.

Memorial to Congress on the subject of the extension of the present mail route from Burlington to Mount Pleasant, was read a second time and considered in committee of the whole. Mr. Bankson in the chair. The committee rose, and by their chairman, reported the bill with amendments, in which the House concurred, and,

On motion of Mr. Hall,

Ordered, That said memorial be further amended by adding the following at the end thereof:

"Your memorialists would further recommend the propriety of establishing a mail route from Monticello in Missouri, by way of Kesaauqua, in Van Buren county, Iowa Territory, and from thence to the city of Burlington, in Des Moines county."

The 16th and 18th rules were, on motion, for the present suspended, and the memorial read a third time, passed, and

Ordered, to be sent to the Council for concurrence.

Bill No. 142, entitled an act supplementary to an act to locate the seat of government of the Territory of Iowa, and for other purposes, as amended by the committee on Territorial affairs, was read a second time, and considered in committee of the whole, Mr. Bailey in the chair. The committee, by their chairman, reported said bill with amendments, in which the House concurred, and then,

On motion, the House adjourned to two o'clock, P. M.

2 O'CLOCK, P. M.

Mr. Beeler, from the joint committee on enrolments, reported the following entitled acts and resolution, to have been this day presented to the Governor for his approval, viz:

An act to provide for changing the venue in civil and criminal cases; and

An act concerning apprentices and servants.

Resolution relative to a salary for the reporter of the Supreme Court.

On motion of Mr. Taylor,

Ordered. That the Council be invited to meet this House instanter in the Representatives Hall, and proceed to the election of one commissioner, from each judicial district, to locate the seat of government of the Territory of Iowa.

The question was then put, "shall bill No. 142, entitled an act supplementary to an act to locate the seat of government of the Territory of Iowa, and for other purposes, be engrossed for a third reading?" and determined in the affirmative.

Mr. Grimes moved for a call of the House, which was had, and absentees sent for.

In the interim, Mr. Beeler, from the joint committee on enrolments, reported the following entitled acts as correctly enrolled, viz:

An act fixing the terms of the Supreme and District Courts of the Territory of Iowa and for other purposes.

An act to allow and regulate the action of waste.

An act to authorize James Leonard, Oliver A. Crary, William H. Brown and Charles Swan to establish and keep a ferry across the Mississippi river at the town of Charleston.

An act to provide for the compensation of judges of probate.

An act to district the territory of Iowa into electoral districts, and apportion the members of the House of Representatives in the same.

An act to authorize John Gaines, Otis Reynolds, &c. to keep a ferry across the Mississippi river opposite Round Mound, at the upper mouth of Des Moines river.

The Speaker then signed the said acts, and the clerk was directed to present them for the signature of the President of the Council.

The Honorable members of the Council having appeared, the Legislative Assembly adopted the following by motion of Mr. Payne:

Resolved, That a majority of all the votes given, shall be required for the election of a commissioner; and,

On motion of Mr. Wallace,

Proceeded to the election of a commissioner for the 3d judicial district, to locate the seat of government of the territory according to the provisions of acts of the Legislative Assembly, now or hereafter to be in force.

Mr. Cox nominated Chauncy Swan.

Messrs. Clark and Roberts were appointed tellers.

Members at the call of their names, having deposited their votes, and the same being counted, it appeared that Chauncy Swan had received 29 vote, Simeon Clark 3 votes, blank 3 votes, Loring Wheeler 1 vote, Chauncey 1 vote, and John Foley 1 vote.

Chauncy Swan, was declared to be duly elected such commissioner.

On motion of Mr. Beeler,

The Assembly proceeded to the election of a commissioner as above for the 2d judicial district.

Mr. Clark, nominated John Ronalds; Mr. Summers John C. Higginson; and Mr. Parker, T. S. Hoge.

Messrs. Lewis and Hall, were appointed Tellers.

The votes having been deposited and counted as above, it appeared, that John Ronalds had received 21 votes, John C. Higgins 5 votes, Higginson 3 votes, and T. S. Hoge 8 votes.

John Ronalds, was declared to be duly elected.

On motion of Mr. Hastings,

The Assembly proceeded to the election of a commissioner, for the 1st judicial district.

Mr. Taylor nominated John Claypole; Mr. Hepner, Robert Ralston; Mr. Bailey, Uriah Biggs; Mr. Wallace, L. B. Hughes, and Mr. Porter, John H. Randolph.

Messrs. Hempstead and Summers, were appointed tellers.

Votes having been counted, it appeared that Robert Ralston, had received 16 votes, John Claypole 8 votes, John H. Randolph 5 votes, L. B. Hughes 4 votes, and Uriah Biggs 3 votes.

There being no election,

On motion of Mr. Payne,

The Assembly proceeded to a 2d ballot for said commissioner for the 1st judicial district.

It then appeared that Robert Ralston had received 15 votes; John Claypole 9 votes; John H. Randolph 6 votes; L. B. Hughes 3 votes; blank 2 votes; and Uriah Biggs 1 vote.

There being yet no election,

On motion of Mr. Payne,

The Assembly proceeded to a third ballot for the 1st judicial district.

Mr. Bailey withdrew the name of Uriah Biggs. Mr. Wallace withdrew that of L. B. Hughes, and Mr. Payne that of John H. Randolph. Mr. Porter again nominated John H. Randolph.

Votes having been counted, it appeared that John Claypole had received 17 votes; Robert Ralston 15 votes; John H. Randolph 3 votes; and blank 1 vote. No election.

On motion of Mr. Bailey,

The Assembly proceeded to a 4th ballot.

Mr. Payne nominated G. S. Bailey; Mr. Porter withdrew that of J. H. Randolph. Mr. Bailey refused to be a candidate.

It then appeared that Robert Ralston had received 18 votes; John Claypole 17 votes; and L. J. Lockwood 1 vote. No election.

On motion of Mr. Payne,

The Assembly proceeded to a 5th ballot.

It finally appeared, that Robert Ralston had received 23 votes; John Claypole 13 votes; and Colonel Cox 1 vote.

Robert Ralston was, therefore, declared to be duly elected a commissioner, &c. for the 1st judicial district.

On motion, the House then adjourned.

Saturday, January 19, 1839.

Mr. Beeler, from the joint committee on enrollments, reported the following entitled acts to have been this day presented to the Governor for his approval:

An act concerning the construction of statutes, &c.

An act relating to the office of recorder of deeds, &c.

An act to authorize Robert Wilson, his heirs or assigns, to erect a dam across Skunk river.

An act to authorize David W. Kilbourn to keep a ferry across the Mississippi river at the town of Montrose.

An act to authorize the appointment of public administrators in the several counties of this Territory, and for other purposes.

An act to regulate the mode of petitioning the legislature in certain cases; and

An act to incorporate the Plymouth Mill and Manufacturing Company.

Mr. Summers offered the following:

Resolved, By the Council and House of Representatives, that both branches of the Legislative Assembly adjourned on Friday the 25th instant, sine die.

The resolution was, on motion of Mr. Beeler, laid on the table.

Mr. Beeler, from the joint committee on enrollments reported as correctly enrolled the following entitled acts:

An act to incorporate the Burlington Steam Mill Company.

An act to provide for the compensation of Sheriffs of the different counties of this Territory for ordering elections and posting up notices.

An act regulating the publication and distribution of the laws and journals of the Legislative Assembly of the Territory of Iowa; and

An act to regulate blacks and mulattoes.

Also, that a bill supplementary to an act to locate the seat of government of the Territory of Iowa, and for other purposes; (the names of the commissioners elected on yesterday being inserted in the blank of the 5th section of said bill;) and bill No. 151, entitled An act concerning seals, have been examined and found to be correctly engrossed.

The said above named acts were signed by the Speaker, and ordered to be presented for the signature of the President of the Council.

Mr. Summers, from the committee to which bill No. 74, An act to organize the county of Clinton, &c. had been recommitted, reported said bill back to the House with amendments.

Mr. Nowlin offered the following:

Resolved, That Mortimer Bainbridge Esq. be allowed the sum of fifty dollars, for his services as clerk of the committee appointed in the month of November last, to examine the affairs of the Miners' Bank of Du Buque.

The resolution was, on motion of Mr. Bankson, referred to the committee on expenditures, and Mr. Nowlin excused from serving on that committee.

The following message from the Council was received, by Mr. Loop, their Assistant Secretary.

Mr. Speaker—

I am directed to inform you that the Council have passed bill No. 52, of their file, A bill concerning bail; also bill of the House, No. 144, An act for the relief of the sheriff of Cedar county, with amendments, in all of which the concurrence of the House is requested.

The Council have also concurred in the joint resolution of the House on the subject of a donation by Congress of four sections of land on which to locate the seat of government of the Territory of Iowa.

I also herewith return to you the following acts of the House of Representatives, the same having been signed by the President of the Council.

An act to provide for the appointment and duties of sheriffs.

An act to authorize Francis P. Blevings to keep a ferry, &c.

The Secretary withdrew. Said resolution was then signed by the Speaker.

Bill No. 44, H. R. file, entitled An act concerning the seat of justice of Scott county, as amended by the committee to which it had been re-committed, was read a second time and considered in committee of the whole, Mr. Coop in the chair. The committee rose, and by their chairman, reported the bill without amendment.

Mr. Summers made a motion that the bill be again recommitted; to which motion Mr. Cox offered an amendment, as follows: And that the committee be instructed to select one commissioner from Davenport, one from Rockingham, and allow the Speaker of this House to select the third commissioner.

The amendment was adopted and the motion agreed to.

Bill No. 142, entitled An act supplementary to an act to locate the seat of government of the Territory of Iowa, and for other purposes, was read a third time, passed and title agreed to.

Ordered, That the same be sent to the Council for concurrence.

Bill No. 149, entitled An act providing for the re-location of the county seat of Van Buren county, was read a second time.

Mr. Hall made a motion that said bill be laid upon the table until the report of the majority of the committee, to which had been referred petitions and remonstrances on the subject of said county seat, be acted upon.

On motion of Mr. Swan,

A call of the House was had. The Sergeant-at-arms was sent after Messrs. Grimes and Porter. After a short time, the call of the House was suspended, by motion of Mr. Patterson, and the question taken on the motion of Mr. Hall, and determined in the negative.

The yeas and nays being called for, were as follow:

Yeas—Messrs. Bankson, Cox, Grimes, Hall, Nowlin, Summers, Swan, Temple and Wallace, Speaker—9.

Nays—Messrs. Bailey, Beeler, Brierly, Blair, Coop, Delashmutt, Frierson, Hastings, Patterson, Parker, Price, Roberts, Taylor, Thornton and Toole.—15.

On motion of Mr. Bailey,

The House resolved itself into a committee of the whole, Mr. Cox in the chair, for the consideration of said bill. After some time the committee rose, and by their chairman obtained leave to sit again.

On motion, the House adjourned until 2 o'clock, P. M.

2 O'CLOCK, P. M.

On motion of Mr. Bailey,

The House again resolved itself into a committee of the whole, Mr. Cox in the chair, for the consideration of bill No. 149, entitled An act to relocate the county seat of Van Buren county. The committee by their chairman reported the bill with amendment.

The question was then put, "will the House concur in the report of the committee?" and determined in the affirmative.

The yeas and nays being called for, were as follow:

Yeas—Messrs. Bailey, Blair, Brierly, Coop, Delashmutt, Frierson, Hastings, Patterson, Parker, Porter, Price, Taylor, Thornton and Toole—14.

Nays—Messrs. Bankson, Cox, Grimes, Hall, Nowlin, Roberts, Summers, Swan, Temple and Wallace, Speaker—10.

Mr. Bailey then moved a suspension of 16th and 18th rules, so that the bill be now read a third time; the motion was disagreed to, and the bill ordered to be engrossed for a third reading.

Mr. Nowlin, from the committee on enrollments, reported as correctly enrolled, An act to divide the county of Henry and to establish the county of Jefferson. The same was signed by the Speaker, and ordered to be presented to the President of the Council for his signature.

Memorial to the President of the United States praying for a delay of public land sales in this Territory, was read a second time, and considered in committee of the whole, Mr. Delashmutt in the chair. The committee, by their chairman, reported the memorial negatived.

The House concurred in the report of the committee, and

On motion of Mr. Patterson,

Ordered that the title of the memorial lie on the table until the 4th day of July next.

Bill No. 50, Council file, An act in relation to bond and other securities, was read a second time, and considered in committee of the whole, Mr. Frierson in the chair. The chairman of the committee reported the bill without amendment, in which report the House concurred, and

On motion of Mr. Nowlin.

Ordered that the 16th and 18th rules be, for the time being, suspended. Said bill was read a third time, passed, and title agreed to.

Bill No. 40, Council file, entitled An act to provide for the appointment of notaries public and to prescribe their duties, was read a third time and passed.

Bill No. 48, Council file, entitled An act to establish the boundaries of the counties of Clayton, Fayette, Delaware and Buchanan, having been considered in committee of the whole, on the 16th inst., and the House having then concurred in the report of the committee, and left said bill open for amendment, Mr. Cox moved to amend the bill by adding thereto the following:

"Sec. 7. And the boundaries of Jackson county shall be as follows, to wit: beginning in the main channel of the Mississippi river, between townships eighty-two and eighty-three north; thence west, on said line to the fifth principal meridian; thence north, on said meridian to the line dividing townships eighty-six and eighty-seven; thence east, on said line, to the Mississippi river; thence down the same to the place of beginning."

Mr. Summers made a motion to lay the bill on the table; which motion was not agreed to.

The question was then taken on the amendment offered by Mr. Cox, and decided in the negative.

Mr. Cox then made a motion that the 6th section, after the word "seven" in the fifth line of the same be stricken out, and the following inserted, to wit:

"Range dividing ranges two and three east, thence north between ranges two and three, to the line dividing townships eighty-seven

and eighty eight, thence east to the main channel of the Mississippi river." Agreed to.

On motion of Mr. Nowlin,

The rules were temporarily suspended, and said bill read a third time and passed.

Ordered, That the Council be informed.

Mr. Loop, the assistant Secretary of the Council, being introduced, delivered the following message:

Mr. Speaker,

I am directed to inform the House of Representatives, that the Council have passed bills of the House with amendments, as follows:

An act to provide for the erection of a penitentiary, and establishing and regulating prison discipline for the same.

An act supplementary to an act to locate the seat of government of the Territory of Iowa, and for other purposes.

The Council have also passed the following entitled bills, without amendment.

An act authorizing Jehu Carter to erect a dam across Big Cedar, in Jefferson county.

The Council have also passed bill No. 53, Council file, An act to authorize Aaron White to keep a ferry across the Mississippi river at the town of Fort Madison.

I also herewith return the following bills of the House, the same having been signed by the President of the Council.

An act to authorize John Gaines and others to keep a ferry, &c.

An act to district the Territory of Iowa into electoral districts, and apportion, &c.

An act to provide for the compensation of judges of probate.

An act to authorize James Leonard and others to keep a ferry, &c.

An act to allow and regulate the action of waste.

An act fixing the terms of the supreme and district courts of the Territory and for other purposes.

An act regulating the publication and distribution of the laws of the Legislative Assembly.

An act to provide for the compensation of sheriffs of the different counties of this Territory for ordering elections.

An act to incorporate the Burlington Steam Mill Company.

An act to regulate blacks and mulattoes. And then he withdrew.

On motion bill No. 142, An act supplementary to an act to locate the seat of government of the Territory of Iowa and for other purposes, as amended by the Council, was read and concurred in.

Ordered, That the Council be informed.

Bill No. 140, An act to incorporate the Keasauqua Lyceum, was read a third time, passed, title agreed to, and ordered to be sent to the Council for concurrence.

On motion the House adjourned.

Monday, January 21, 1839.

Mr. Hastings presented the remonstrance of inhabitants of Muscatine county, against the detachment from said county, of townships seventy-seven and seventy-eight north, and range one east.

Referred to the committee on townships and county boundaries.

On motion of Mr. Grimes,

Ordered, That the committee on expenditures, be instructed to report to this House, a general appropriation bill, for defraying the expenses of the present Legislative Assembly, by to-morrow morning.

On motion of Mr. Hastings,

Ordered, That a resolution, offered some days since on the subject of employing James G. Edwards, to print five hundred copies of the act prescribing the general powers, and duties of justices of the peace, be taken from the table.

On motion of Mr. Taylor,

Said resolution was referred to the committee on the judiciary.

On motion of Mr. Hastings,

Resolved, That Messrs. Clarke & Co. be requested to publish as soon as possible in the Gazette, "An act fixing the terms of the supreme and district courts of this Territory, and for other purposes," and to furnish each clerk of the district courts in the Territory with a copy.

Mr. Swan offered the following:

Resolved, By the Council and House of Representatives, of the Territory of Iowa, That James Clarke & Co. publishers of the Iowa Territorial Gazette be allowed the sum of seven hundred and eighty dollars, for copies of said paper furnished the members of the Legislative Assembly, during its present session.

Referred to the committee on expenditures.

Mr. Hastings offered the following:

Resolved, That the Hon. Wm. B. Conway, Secretary of the Territory, be requested to furnish this House with a copy of the Governor's letter to the Secretary, of the 5th September last, relative to procuring stationery for the use of the legislature, and funds of their payment; a copy of the Secretary's letter to Mr. Parvin, authorizing him to make purchases &c. at Cincinnati, together with a copy of the bills of articles purchased by Mr. Parvin, in pursuance of such authority; which was,

On motion of Mr. Swan, ordered to lie on the the table.

Mr. Price, from the joint committee on enrollments, reported the following entitled acts to have been this day presented to the Governor for his approval:

An act to authorize Francis P. Blevings to keep a ferry, &c.

An act to provide for the appointment and duties of sheriffs.

An act to regulate blacks and mulattoes.

An act to incorporate the Burlington Steam Mill Company.

An act regulating the publication and distribution of the laws and journals of the Legislative Assembly of the Territory of Iowa.

An act to authorize James Leonard, Oliver A. Crary, William H. Brown and Charles Swan, to establish and keep a ferry across the Mississippi river at the town of Charleston.

An act to allow and regulate the action of waste.

An act to provide for the compensation of judges of probate.

An act to provide for the compensation of sheriffs of the different counties of this Territory, for ordering elections, and posting up notices.

An act to authorize John Gaines, Otis Reynolds & Co. to keep a ferry across the Mississippi river opposite the Round Mound, at the upper mouth of the Des Moines river.

An act fixing the terms of the supreme and districts courts of the Territory of Iowa, and for other purposes.

An act to district the Territory of Iowa into electoral districts, and apportion the members of the House of Representatives in the same.

Mr. Nowlin, from the joint committee on enrollments, reported as correctly enrolled, An act to provide for the appointment of justices of the peace, to prescribe their duties and regulate their proceedings; and

An act supplementary to an act to locate the seat of government of the Territory of Iowa and for other purposes; Also, as correctly engrossed, A bill to re-locate the county seat of Van Buren county.

The aboved named acts were signed by the Speaker and ordered to be presented for the signature of the President of the Council.

Mr. Summers, from select to which bill No. 44, H. R. file, was re-committed, entitled An act concerning the seat of justice of Scott county, reported the bill back to House with amendments.

Mr. Grimes, from the select committee to which was referred bill No. 148, entitled An act to establish a territorial road from Davenport to Du Buque, as surveyed by Jno. Foley and others, made report:

That it is inexpedient to pass any law disbursing the appropriation made by Congress to build a road from the line of the State of Missouri to the Mississippi river opposite the town of Prairie Du Chein, and to construct bridges for the same; and that said appropriation amounting to \$10,000 ought to be expended by and under the direction of the general government.

Which report was concurred in.

Bills, Council file, No. 52, An act concerning bail, and

No. 53, An act to authorize Aaron White to keep a ferry across the Mississippi river, at the town of Fort Madison, were read a first time. The rule requiring No. 52 to be printed, was suspended by motion, and the same read a second time, and considered in committee of the whole, Mr. Hall in the chair. The committee by their chairman reported the bill without amendment.

The House concurred in the report, and

On motion of Mr. Grimes,

Ordered, That said bill be laid on the table.

On motion of Mr. Summers,

Bill No. 74, entitled An act providing for the organization of the county of Clinton, as amended by the committee to which it was re-

ferred, was read a second time, Mr. Grimes in the chair. The chairman of the committee reported the bill with amendments.

Mr. Taylor then made a motion that the bill lie on the table, which was lost.

The question "will the House concur in the report of the committee?" was put and determined in the negative.

The yeas and nays being called for, were as follow:

Yeas—Messrs. Brierly, Delashmutt, Grimes, Hall, Porter, Price, Summers, Temple, Toole and Wallace, Speaker—10.

Nays—Messrs. Bankson, Bailey, Beeler, Blair, Coop, Cox, Frier-son, Nowlin, Patterson, Parker, Roberts, Swan, Taylor and Thorn-ton—14.

On motion of Mr. Nowlin,

Ordered, That said bill be again re-committed, and the committee instructed to provide in the same for the location of the county seat of Clinton county by commissioners.

Mr. Wallace, the Secretary of the Council, was introduced and delivered the following message:

Mr. Speaker,—

I am directed to present for the concurrence of the House, the following resolution, the same having passed the Council.

Resolved, (if the House of Representatives concur,) that the 14th and 15th joint rules be rescinded.

I am further directed herewith to return the following:

An act to provide for the appointment of justices of the peace, &c.

An act supplementary to an act to locate the seat of government, &c.

✓ An act to divide the county of Henry and establish the county of Jefferson; also, Resolution on the subject of a donation from Congress of four sections of land on which to locate the seat of government of the Territory. Which acts and resolution have been signed by the President of the Council. And then he witherew.

On motion of Mr. Price,

Bill No. 122, entitled An act regulating writs of ne exeat and injunctions, was taken from the table and considered in committee of the whole, Mr. Taylor in the chair. The chairman reported the bill without amendments, in which the House concurred, and

On motion of Mr. Price,

Suspended the rules in relation to said bill; which was then read a third time, passed, title agreed to, and

Ordered to be sent to the Council for concurrence.

The House then adjourned to 2 o'clock, P. M.

2 O'CLOCK, P. M.

Mr. Beeler, from the joint committee on enrollments, reported the following entitled acts to have been this day presented to the Governor for his approval:

An act to provide for the appointment of justices of the peace, to prescribe their duties, and regulate their proceedings.

An act supplementary to an act to locate the seat of government of the Territory of Iowa, and for other purposes; and

An act to divide the county of Henry, and to establish the county of Jefferson.

Also, a joint resolution, asking a donation of four sections of land from the general government for the purpose of locating thereon the seat of government of the Territory.

Mr. Grimes obtained leave to introduce bill No. 153, entitled An act to incorporate the Burlington Lyceum, which was read a first time.

On motion of Mr. Beeler,

A suspension of the rules was ordered in relation to said bill, and the same read a second time.

On motion of Mr. Temple,

The House resolved itself into a committee of the whole for the consideration of said bill, Mr. Patterson in the chair. The committee by their chairman reported the bill without amendment.

The House concurred in the report of the committee, and, by a vote of two thirds, ordered that the bill be read a third time now.

The bill passed with title amended.

Mr. Bankson from the select committee appointed for that purpose, reported a memorial to the President of the United States praying for the removal of the present Governor of the Territory of Iowa; which memorial was read a first and second time and on motion considered in committee of the whole, Mr. Parker in the chair.

The said memorial reads as follows:

To His Excellency MARTIN VAN BUREN, President of the United States.

Your memorialists, the Council and House of Representatives of the Territory of Iowa, respectfully beg leave to submit,

That while they entertain a deep sense of the respect and forbearance due to their parent government and its constituted authorities, whilst they would be the last to interpose obstacles and difficulties to the proper and agreeable discharge of those high duties which devolve upon your Excellency, and whilst they are disposed to endure many of the evils arising from and almost unlimited exercise of Executive power, when exercised with wisdom, moderation, and temper, yet they feel impelled by an irresistible sense of duty to their constituents, to themselves, and to the American people, to call the attention of your Excellency to the present situation of our Territory, and to the officers who have been called to guard her rights, and to cherish her interests.

As the Representatives of the people, we are obliged to appeal to your patriotism and wisdom, and to your sense of justice, for the exercise of that salutary power belonging to your office, and which alone can relieve our constituents of their present grievances.

The attitude in which his Excellency, Governor Lucas, has placed himself by his official conduct, in relation both to the Legislative Assembly and the people of this Territory, renders it impracticable and inconsistent with the rights, interests, wishes, and harmony of the people of this Territory, that he should longer continue in the discharge of Executive duties.

No man was ever called to the Executive chair under more favor-

able auspices than was Robert Lucas. From his former military services and his experience as a Legislatoor and as a Governor, the people were prepared to expect much, and he was received in our Territory cordially and with open arms. They were led to believe that wisdom, moderation, and good temper would characterize all his official acts, as well as his private intercourse; but these agreeable anticipations have been in a great measure unanswered.

The Legislative Assembly will enumerate some of the faults of Governor Lucas's administration, and leave your Excellency to judge whether it can be considered possible for him to remain as the Executive of this Territory, without endangering its present peace and future prosperity.

He has refused to place his signature to laws the most salutary, and essential to the public good, without ever deigning to make known to your memorialists his objections thereto.

That he has withheld others of equal importance without giving your memorialists to understand what, or whether any, Executive action has taken place in regard to them, and that too, as your memorialists believe, with a view to subject their entire action to his will.

That he has virtually declared himself paramount to your memorialists, the representatives of the people, by expressly avowing, in an official communication to your memorialists, *that independent of His Excellency they have no power.*

That he has usurped the judicial authority by assuming to dictate, in notes appended to his approval of many laws, the construction which shall be given to such laws.

He has refused officially, in a coarse and uncourteous manner, to inform the Legislative Assembly what laws had received his sanction.

He has refused to consider recommendations of applicants for office, from members from the district, or county, in which the applicants reside, and indirectly avowed his determination not to regard such recommendations.

He has refused to converse with or speak to members of the Legislative Assembly, when waiting on his Excellency in relation to public business with which they were charged by the body to which they belong.

He has, from the commencement of the session of the Legislative Assembly, on various occasions, and to all manner of persons, anticipated the action of the Executive Department in regard to public measures, before they were regularly or officially before him; and that too in a manner indicative of a design to make the Legislative Assembly subservient to his will, regardless of their own conviction of duty, and their responsibility to their constituents. And these declarations have been made, in many instances, to strangers and visitors to our Territory, who have no interest in common with us.

While he has been officiously scrupulous in relation to disbursements of money for the payment of the usual expenses of the Legislative Assembly, he has at the same time sent his own bills to the Secretary for payment without authority of law.

He has declared to members of the Legislative Assembly his determination to *veto* all laws for which he would not vote as a mem-

ber of the Assembly, thereby placing his isolated opinion in opposition to that of the Representatives of the people, as well in matters of mere expediency as principle.

He has appointed and nominated to office persons from abroad, who were neither domiciled among, nor had they an interest in common with, the people of Iowa; and some of the persons, thus nominated or appointed, were connected with his Excellency by *intimate ties*.

He has manifested such a total want of abilities, not only to govern in time of peace, but more especially to command in time of war, as is justly calculated to inspire your memorialists and their constituents with alarm for the security of their country, bordering, as it does on the very confines of savage, warlike, and powerful tribes.

Wherefore, and in consideration of the above recited facts, your memorialists are driven to the unpleasant alternative of appealing to the constitutional guardian of this people, who has, they firmly believe, their best interests at heart, although, in the language of your Excellency, "the appointing power cannot always be well advised in its selections, and the experience of every country has shown that public officers are not always proof against temptation," and of declaring to your Excellency, in the language of the Declaration of Independence, their firm conviction that Robert Lucas is "unfit to be the ruler of a free people."

They, therefore, impelled by facts alone, and in nowise influenced by party or political motives, most respectfully and earnestly pray that his Excellency be forthwith recalled from the further discharge of the Executive duties of the Territory, under the full conviction that the grievances of the people, whom they have the honor to represent, will not be heard and remain unredressed, and that the misrule, which might otherwise terminate in the ruin of the fairest and hitherto most prosperous and quiet portion of our common country, will be peaceably and constitutionally arrested.

The committee by their chairman reported the memorial to the House without amendment. And pending the question "will the House concur in the report of the committee?"

Mr. Patterson moved a call of the House, which was had and an absent member sent for.

After a short time, Mr. Patterson withdrew his call, and the question of concurrence put and determined in the affirmative.

The yeas and nays being called for, were as follow:

Yeas—Messrs. Bankson, Blair, Cox, Delashmutt, Grimes, Hall, Nowlin, Porter, Roberts, Summers, Swan, Taylor, Temple, Thornton, Toole and Wallace, Speaker—16.

Nays—Messrs. Bailey, Beeler, Brierly, Coop, Frierson, Patterson, Parker and Price—8.

The question on the engrossment and reading of said memorial, was put and decided in the affirmative.

The yeas and nays being called for by Mr. Frierson, are as follow:

Yeas—Messrs. Bankson, Blair, Cox, Delashmutt, Grimes, Hall, Nowlin, Porter, Roberts, Summers, Swan, Taylor, Temple, Thornton, Toole and Wallace, Speaker—16.

Nays—Messrs. Bailey, Beeler, Brierly, Coop, Frierson, Patterson, Parker and Price—8.

Mr. Frierson offered the following:

Whereas, a resolution was adopted in this House on the 15th instant, appointing a committee to memorialize the President of the United States to remove the present Governor of this Territory; and whereas, the said resolution was adopted by a majority of only two votes; and whereas, there is no rule of this House authorizing the minority to spread their protest on the journals: Therefore,

Resolved, That the minority who voted against the passage of said memorial be allowed to prepare and forward a counter memorial to the President of the United States on the same subject, and spread their protest on the journal of this House.

Mr. Grimes moved that the preamble and resolution be rejected; to which the House agreed.

The yeas and nays being called for, were as follow:

Yeas—Messrs. Bankson, Blair, Cox, Delashmutt, Grimes, Hall, Nowlin, Porter, Roberts, Summers, Swan, Taylor, Temple, Thornton, Toole and Wallace, Speaker—16.

Nays—Messrs. Bailey, Beeler, Brierly, Coop, Frierson, Patterson, Parker and Price—8.

So the preamble and resolution were rejected.

The amendments made by the Council to bill No. 41, H. R. file, entitled An act subjecting real and personal estate to execution, having been read, a motion was made that the House concur in 1st amendment to 4th section, which motion was adopted.

The yeas and nays being called for, were as follow:

Yeas—Messrs. Bankson, Beeler, Blair, Coop, Cox, Delashmutt, Grimes, Hall, Nowlin, Patterson, Parker, Porter, Roberts, Summers, Swan, Taylor, Temple, Thornton, Toole and Wallace, Speaker—20.

Nays—Messrs. Bailey, Brierly, Frierson and Price—4.

A motion was then made that the House concur in the second amendment to the 4th section, which motion was agreed to.

The yeas and nays being called for, were as follow:

Yeas—Messrs. Bankson, Beeler, Cox, Delashmutt, Frierson, Hall, Nowlin, Patterson, Porter, Roberts, Taylor, Temple and Toole—13.

Nays—Messrs. Bailey, Blair, Brierly, Coop, Grimes, Parker, Price, Summers, Swan, Thornton and Wallace, Speaker—11.

A motion was then made that the House concur in the third amendment to the 4th section, which was sustained.

The yeas and nays being called for, were as follow:

Yeas—Messrs. Bankson, Beeler, Blair, Brierly, Cox, Frierson, Hall, Nowlin, Parker, Porter, Price, Roberts, Summers, Swan, Taylor, Temple and Toole—17.

Nays—Messrs. Bailey, Coop, Delashmutt, Grimes, Patterson, Thornton and Wallace, Speaker—7.

A motion was made to concur in the 4th amendment to the section which was agreed to.

The yeas and nays being called for, were as follow:

Yeas—Messrs. Bankson, Beeler, Cox, Delashmutt, Nowlin, Patterson, Porter, Roberts, Swan, Taylor, Temple and Toole—12.

Nays—Messrs. Bailey, Brierly, Coop, Frierson, Grimes, Hall, Parker, Price, Summers, Thornton and Wallace, Speaker—11.

Mr. Summers moved that the bill be referred to a select committee. Lost.

Mr. Hall made a motion that the bill be committed to a committee of one from each electoral district, which was not agreed to.

The 5th amendment to the 4th section, and the amendments to the 9th and 24th sections, were also concurred in.

The amendments to the 12th and 23d sections were disagreed to. Ordered, That the Council be informed.

The amendments of the Council to bill No. 76, An act to incorporate the town of Bloomington, were read, and

On motion of Mr. Frierson, concurred in.

The amendments of the Council to bill No. 86, An act fixing the time of the annual meeting of the Legislative Assembly, (the first of which, being to strike out "December," and insert "November") were also read and concurred in.

The amendments made by the Council to the 3d, 5th and 7th, the second amendment to the 9th, and the amendments to the 13th, 14th, 17th and 18th sections of bill No. 92, entitled An act establishing certain Territorial roads, were read and concurred in, and those made to the first part of the 9th section, and to sections 10, 15 and 16, of said bill disagreed to.

No. 99, entitled, An act to provide for and regulating general elections in this Territory, as amended by the Council, was read and acted upon as follows:

The amendments made to the 13th, 20th and 22d sections concurred in, and those made to the 9th, 10th, 12th, 14th, 25th, and 28th sections disagreed to.

Bills No. 124, An act to authorize Hiram C. Smith to erect a dam across Skunk river, and

No. 134, An act regulating the action of replevin; as amended by the Council, were read and concurred in.

Bill No. 136, An act to provide for the erection of a penitentiary and establishing prison discipline for the same; as amended by the Council, was taken up, when Mr. Taylor moved to amend the amendment of the Council to the 3d section of said bill, by striking out "Burlington," and inserting "Fort Madison." Mr. Hall called for a division of the question. The question was then put on striking out "Burlington," and determined in the affirmative.

Mr. Hall moved to amend the amendment offered by Mr. Taylor, by inserting "Keasauqua;" which was not agreed to.

Mr. Swan offered to amend said amendment by inserting "Iowa city," in Johnson county; which was rejected.

The question on the motion to insert "Fort Madison" recurred, and was determined in the affirmative.

Mr. Taylor made a motion further to amend the amendment of the Council to said 3d section, by striking out "Des Moines," where it occurs, and inserting "Lee;" which motion was adopted.

The amendment of the Council to the 5th section of said bill, was concurred in, and that made to the 12th section disagreed to.

Ordered, That the Council be informed.

Mr. Patterson offered the following:

Resolved, That the minority who voted against the memorial to the President of the United States, praying for the removal of Governor Lucas be allowed to take a copy of said memorial.

To which Mr. Swan offered the following amendment, to wit:

And that James G. Edwards be employed to print 500 copies of said memorial for the use of the members of this House.

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

The yeas and nays being called for, were as follow:

Yeas—Messrs. Bankson, Blair, Cox, Delashmutt, Grimes, Hall, Hastings, Nowlin, Porter, Roberts, Summers, Swan, Temple, Toole and Wallace, Speaker—15.

Nays—Messrs. Bailey, Beeler, Brierly, Coop, Frierson, Patterson, Parker and Thornton--8.

The House adjourned.

Tuesday, January 22, 1839.

Mr. Roberts obtained leave to present a remonstrance of inhabitants of Cedar county, setting forth that they have as much right to petition for a portion of Muscatine county as inhabitants of Muscatine county have to ask a part of Cedar.

Said remonstrance was, on motion, referred to the committee on townships and county boundaries.

Mr. Loop, the Assistant Secretary of the Council, being introduced, delivered the following message:

Mr. Speaker,

I am directed to inform the House that the Council have passed the following bills of the House with amendments:

An act regulating mills and millers, and for other purposes.

An act providing for the relief of the sheriffs of Lee and Scott counties.

An act relative to wills and testaments, and administrators and the settlement of estates.

An act for assessing and collecting county revenue.

Also bill of the Council, No. 51, an act to establish a ferry across the Mississippi river at Fort Madison.

I also herewith present for your signature, bill of the Council, No. 39, An act for the incorporation of public libraries.

And then he withdrew.

The Speaker signed said bill, No. 39.

Mr. Grimes, by leave, presented the petition of Messrs. Russell and Reeves, praying that fifteen hundred dollars be advanced to them on account of the contract with the Territory entered into by them, with bond for performance; which petition was read, when Mr. Grimes offered the following:

Whereas Messrs. Russell and Reeves, printers of the laws of this Territory, have filed bonds in the office of the Secretary, in the sum of five thousand dollars each, together with three securities, in compliance with a resolution of the Council and House of Representatives; Therefore,

Resolved, That Wm. B. Conway, Esq. fiscal agent, and Secretary of the Territory of Iowa, be authorized and requested to pay said Russell and Reeves, the sum of fifteen hundred dollars out of monies which he may have in his hands not otherwise appropriated,

Which was adopted.

Mr. Swan, from the committee on enrolments, reported as correctly enrolled;

An act concerning water crafts found adrift, lost goods and estray animals.

An act for the incorporation of public buildings, and

An act authorising Jehu Carter to erect a dam across Big Cedar in Jefferson county, and

A memorial to the President of the United States, as correctly engrossed.

Said enrolled acts were duly signed by the Speaker, and the clerk directed to present them for the signature of the President of the Council.

Bill No. 44, H. R. file, entitled an act concerning the seat of justice of Scott county, was taken up by motion, read a second time and ordered to be considered in committee of the whole, Mr. Porter in the chair. The bill was reported by the chairman, without amendment. The report was concurred in, and the bill ordered to be engrossed for a third reading.

Bill No. 87, entitled an act concerning the construction of statutes, was likewise taken up, read and considered, Mr. Summers in the chair. The committee by their chairman reported the bill without amendment. The report was concurred in, and then,

On motion of Mr. Bankson,

The House ordered that said bill be referred to the committee on the Judiciary.

The following resolution of the Council, to wit,

Resolved, (if the House of Representatives concur,) That the 14th and 15th joint rules be rescinded, was taken up, by motion, and read and concurred in.

Ordered, That the clerk acquaint the Council therewith.

Bill No. 150, entitled an act supplementary to an act to incorporate the Bloomington and Cedar canal company, was read a second time and considered in committee of the whole, Mr. Taylor in the chair, and reported by said committee without amendment.

The House concurred in the report, and by motion of Mr. Frier-son,

Ordered, That a call of the House be had, and the sergeant at arms sent for the absentees.

And pending the call, Mr. Grimes, from the committee on the Judiciary, obtained leave to report bill No 87, referred on this morning to that committee back to the House with amendments.

The call of the House being dispensed with, the question "shall bill No 150 be engrossed and read a third time?" and determined in the affirmative.

The yeas and nays being called for, were as follow:

Yeas—Messrs. Bailey, Beeler, Brierly, Delashmutt, Frierson, Grimes, Hall, Hastings, Parker, Porter, Price, Taylor, Temple, Toole and Wallace, Speaker—15

Nays—Messrs. Bankson, Blair, Coop, Cox, Patterson, Roberts, Summers, Swan and Thornton—9.

Mr. Patterson, from the committee on expenditures, to which had been referred the account of M. Bainbridge, Esq. reported the following resolution:

Resolved, That Mortimer Bainbridge, Esq., be allowed the sum of twenty five dollars for his services, as clerk of the committee appointed in the month of November last to examine the affairs of the Miner's Bank of Du Buque.

Which was read, and, on motion of Mr. Grimes, laid on the table.

On motion of Mr. Bailey,

Bill No. 149, An act to relocate the county seat of Van Buren county, was taken up, read a third time, and the question, "shall the bill pass?" put, and determined in the affirmative.

Mr. Hall called for the yeas and nays and they were as follow:

Yeas—Messrs. Bailey, Beeler, Blair, Brierly, Coop, Delashmutt, Frierson, Hastings, Patterson, Parker, Porter, Price, Taylor, Thornton and Toole.—15.

Nays—Messrs. Bankson, Cox, Grimes, Hall, Nowlin, Roberts, Summers, Swan, Temple and Wallace—10.

Ordered, That said bill be sent to the Council for concurrence.

Bill No. 52, Council file, an act concerning bail, was read a second time, when the House, on motion, resolved itself into a committee of the whole on the same, Mr. Temple in the chair. The committee reported the bill without amendment. The House concurred in the report, and,

On motion of Mr. Grimes,

Ordered that the rules be suspended, so that the bill be read a third time. The same was then passed, and the clerk directed to inform the Council thereof.

On motion of Mr. Summers,

The resolution on the subject of adjournment, laid on the table on the 19th inst. was taken therefrom.

On motion of Mr. Bailey said resolution was rejected.

Mr. Cox offered the following:

Resolved, That a committee of three be appointed to examine into the unfinished business of the House, and make report to morrow morning as to what business should be acted upon. Which was adopted, and Messrs Cox, Grimes and Taylor appointed said committee.

The Speaker announced a message from his Excellency the Governor, which was read and is as follows:

EXECUTIVE DEPARTMENT, IOWA TERRITORY,
January 21, 1839.

To the House of Representatives of the Legislative Assembly:

GENTLEMEN—I have this day signed the act entitled “an act to locate the seat of government of the Territory of Iowa, and for other purposes”—also the act entitled “an act supplementary to an act to locate the seat of government of the Territory of Iowa and for other purposes,” and have deposited both acts with the Secretary of the Territory,

In transmitting to you this information, I consider it my duty to state to you, at the same time, that I have been unable to reconcile with the organic law, the provisions therein that relate to the mode of appointing commissioners, and filling these appointments with members of the Legislative Assembly.

I have been unable to discover any place in the organic law that vests in the Legislative Assembly the right to appoint officers. The 7th section declares “that all township and county officers, except judicial officers, justice of the peace, sheriffs, and clerks of courts, shall be elected by the people.” Thus securing to the people, the right to elect all officers, (with the above exception) that partake of the character of township or county officers. The section further proceeds to declare, that “the Governor shall nominate, and by and with the advice and consent of the Legislative Council, shall appoint all judicial officers, justice of the peace, sheriffs, and militia officers, except the staff, and all civil officers not herein provided for.”

The 8th section declares “that no member of the Legislative Assembly shall hold, or be appointed to, any office created, or the salary or emoluments of which shall have been increased, whilst he was a member during the time for which he shall have been elected and for one year after the expiration of such term.”

If the commissioners created and appointed by these acts, partake of the character of civil officers, both the mode of appointment, and filling these appointments with members of the Legislative Assembly, are in contradiction of the organic law and would be legitimately void. But inasmuch as provision has been made in the act regulating writs of quo warranto, for bringing questions of this character before the judiciary; and considering also that the members of the Legislative Assembly as well as myself, have taken a solemn oath to support the organic law—and approving the bill in other respects—I have waved my objections and signed both the original bill and supplement, under the impression that should the organic law be infringed, the proper remedy may be applied by the judiciary under the quo warranto act.

Very respectfully,

Your obedient servant,

ROBERT LUCAS.

Bills No. 141, an act providing for the recording of town plats; and No 146, an act to improve the police of the city of Burlington, were severally read a third time, passed, titles agreed to, and

Ordered to be sent to the Council for concurrence.

On motion, the House adjourned to two o'clock, P. M.

2 O'CLOCK, P. M.

Mr. Grimes from the committee on the judiciary to which was yesterday referred a resolution in relation to the printing in pamphlet form by James G. Edwards, of the act providing for the appointment of justices of the peace, to prescribe their duties, &c. reported said resolution back to the House with an amendment to the same as follows:

"Together with the law concerning constables, and a statement of fees allowed by law to justices, constables and jurors."

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

Mr. Summers offered the following and moved its adoption to wit:

Resolved, That the Hon. William H. Wallace, Speaker of the House of Representatives, be allowed three dollars extra per day, for his services.

Mr. Bailey called for the yeas and nays on the same, and they were as follow:

Yeas—Messrs. Bankson, Blair, Coop, Cox, Delashmutt, Grimes, Hall, Nowlin, Patterson, Porter, Roberts, Summers, Swan, Taylor, Temple, Thornton and Toole—17.

Nays—Messrs. Bailey, Beeler, Frierson, Hastings, Parker and Price—6.

So the resolution was adopted.

Mr. Nowlin, from the joint committee on enrolments, reported the following acts to have been correctly enrolled:

An act to establish the several seminaries herein named.

An act relative to proceedings in chancery.

Which acts were signed by the Speaker, and ordered to be presented to the President of the Council for his signature.

Mr. Nowlin made a motion that the resolution allowing pay to Mortimer Bainbridge, Esq., attorney and clerk employed by the commissioners appointed to investigate the Miners' Bank of Du Buque, laid on the table this morning, [be taken therefrom.—Which motion was agreed to.

Mr. Porter moved to amend the resolution by striking out 'twenty five' and inserting 'fifteen,' which was disagreed to.

The resolution was then adopted.

Bill No. 151, an act concerning seals, was read a third time and passed.

Ordered, That the same be sent to the Council for concurrence.

Memorial to the President of the United States, praying for the removal of the present Governor of the Territory, was read a third time, and pending the question "shall the memorial pass?" Mr. Porter asked for a call of the House which was had, and the sergeant at arms was despatched for the absentees.

After a short time the call of the House was suspended, when Mr. Hastings asked to be excused from voting on the question of the passage of said memorial.

The House refused to excuse Mr. Hastings.

The yeas and nays being called for, were as follow:

Yeas—Messrs. Bailey, Blair, Cox, Frierson, Grimes, Hastings, Patterson, Swan, Temple, Thornton, Toole and Wallace, Speaker—12.

Nays—Messrs. Bankson, Beeler, Brierly, Coop, Delashmutt, Hall, Nowlin, Parker, Price, Roberts, Summers and Taylor—12.

On motion of Mr. Nowlin,

Ordered, That the vote taken on excusing Mr. Hastings from casting his vote on the passage of said memorial, be reconsidered and that gentleman now excused.

The question, "shall the memorial pass?" was then put and determined in the affirmative.

The yeas and nays being called for, were as follow:

Yeas—Messrs. Bankson, Blair, Cox, Delashmutt, Grimes, Hall, Nowlin, Porter, Roberts, Summers, Swan, Taylor, Temple, Thornton, Toole and Wallace, Speaker—16.

Nays—Messrs. Bailey, Beeler, Brierly, Coop, Frierson Patterson, Parker and Price—8.

The assistant Secretary of the Council, Mr. Loop, being introduced, delivered the following message:

Mr. Speaker,—

I am directed to inform the House that the Council have passed the following bills of the Council:

No. 55, an act concerning minors, orphans and guardians.

No. 56, an act concerning reference to arbitration by agreement before a justice of the peace, or to referees by agreement before the district court.

No. 57, an act to incorporate the town of Davenport.

No. 58, An act to authorise the holding of the district court in the county of Jefferson. In all of which the concurrence of the House is requested.

The Council have also concurred in H. R. file, memorial to Congress on the subject of settlements on school lands, without amendment.

I also herewith return the following entitled acts of the House the same having been signed by the President of the Council.

An act authorizing Jehu Carter to erect a dam across Big Cedar in Jefferson county.

An act concerning water crafts found adrift, lost goods, and estray animals.

And then he withdrew.

The amendments by the Council to bills No. 79, 98, 100, 135, 137 and 144, were severally read and concurred in.

Ordered, That the Council be informed.

Bill No. 87, an act concerning the revival of statutes, with amendments, made by the committee on the Judiciary, was read a second time and considered in the committee of the whole, Mr. Toole in the chair. The committee reported said bill without further amendment. The House concurred in their report and ordered that the rules so far as they relate to said bill be suspended so that the same be read a third time. The bill was then passed, title agreed to, and ordered to be sent to the Council for Concurrence.

Mr. Nowlin, from the committee on expenditures to which was referred a joint resolution allowing James Clark & Co. seven hundred and eighty dollars, for copies of the Iowa Territorial Gazette furnished the Legislative Assembly at its present session, reported the same back to the House without amendment.

Said resolution was then adopted.

Ordered, That it be sent to the Council for concurrence.

Mr. Beeler, from the committee on enrolments, reported the following entitled acts as correctly enrolled:

An act to authorize Hiram C. Smith and Cordell to erect a dam across Skunk river.

An act fixing the time and place for the annual meeting of the Legislative Assembly.

An act regulating the action of replevin.

Which acts the Speaker then signed, and ordered, that they be presented to the President of the Council for his signature.

Mr. Summers from select committee to which had been referred bill No. 74, entitled, an act providing for the organization of the County of Clinton, reported said bill back to the House with amendments. Which bill and amendments were, on motion, considered in committee of the whole, Mr. Bailey in the chair. The committee, by their chairman, reported the same and asked the concurrence of the House, which it refused to give.

The yeas and nays being called for, were as follow:

Yeas—Messrs. Beeler, Brierly, Cox, Delashmutt, Hall, Summers, Temple and Toole—8.

Nays—Messrs. Bankson, Bailey, Blair, Coop, Frierson, Hastings, Patterson, Parker, Price, Roberts, Taylor and Thornton—12.

On motion, the House then adjourned, until to 6½ o'clock, P. M.

6½ O'CLOCK, P. M.

Mr. Price, from the joint committee on enrolments, reported the following entitled acts to have been this day presented to the Governor for his approval, viz:

An act concerning water crafts found adrift, lost goods and estray animals.

An act to authorize Jehu Carter to erect a dam across Big Cedar in Jefferson county.

Mr. Nowlin, from the committee on enrolments, reported as correctly engrossed, bills entitled as follows, viz:

A bill concerning the seat of Justice of Scott county; and

A bill supplementary to an act to incorporate the Bloomington and Cedar river canal company.

Mr. Grimes moved for a call of the House, which was had, and several members were ascertained to be absent together with the sergeant at arms.

On motion of Mr. Nowlin,

The messenger was sent to procure the attendance of absent members and the sergeant at arms.

Bills Council file, No. 51, an act to establish a ferry across the Mississippi river, at the town of Fort Madison.

No. 55, An act concerning minors, orphans and guardians.

No. 56, An act confirming reference to arbitration before a justice of the peace, or to referees by agreement before the District Court.

No. 57, an act to incorporate the town of Davenport, and

No. 58, an act to authorise the holding of district courts in the county of Jefferson; were severally read a first time.

On motion of Mr. Summers,

The resolution requiring the printing of bills prior to a second reading, was suspended in reference to the above named bills, Council file; which bills were read a second time, when the House resolved itself into a committee of the whole, Mr. Bankson in the chair for the consideration of said bills. After some time the committee rose, and by their chairman reported bill No. 51, negatived, and Nos. 55, 56, 57, and 58 without amendment.

The House concurred in the report of the committee, and

On motion of Mr. Taylor,

Ordered, That the 16th and 18th rules be also suspended, in reference to said bills, No. 55, 56, 57, and 58; which bills were then read a third time and passed.

Ordered, That the Council be made acquainted therewith.

Mr. Loop, the assistant Secretary of the Council, being introduced, delivered the following message:

Mr. Speaker,

I am directed to inform the Hon. the House of Representatives, that the Council have passed bills of the House as follows:

No. 101, an act concerning amendments and jeofails, and

No. 131, an act concerning vagrants, without amendments.

Also, No. 147, an act to incorporate the Burlington and Des Moines transportation company, with amendments, in which amendments the concurrence of the House is requested.

I am further directed to inform the House of Representatives, that the Council has concurred in the amendments made by the former to those made by the latter to bill No 136, an act to provide for the erection of a penitentiary, and establishing and regulating prison discipline for the same.

And then he withdrew.

Mr. Nowlin obtained the consent of the House to introduce bill No. 154, an act to authorize the Governor to call a special session of the Legislative Assembly. The bill was read a first time, and all the rules of House delaying the passage of the same suspended for the time being. On motion, said bill was read a second time, and considered in committee of the whole, Mr. Bailey in the chair. The chairman made report that the committee had made no amendment to the bill and desired the concurrence of the House therein. The House concurred. The bill was then read a third time and passed with title agreed to.

Bills H. R. file, No. 44, an act concerning the seat of justice of Scott county and

No 150, an act supplementary to an act to incorporate the Bloom-

ington and Cedar river canal company were read a third time, passed and the titles agreed to.

Ordered, That said bills be sent to the Council for concurrence.

The amendments made by the Council to bill No. 147, an act to incorporate the Burlington and Des Moines transportation company, was read and concurred in.

Ordered, That the Council be informed.

Mr. Taylor offered the following:

Whereas the first session of the Legislative Assembly of the Territory of Iowa, will, by limitation, expire on Friday next; and whereas the lives of its members have been preserved up to this late period of the session: Therefore,

Be it resolved, That a committee of two members be appointed to wait on the Rev. Mr. Scott, of this city, and request him to deliver a sermon suited to the occasion in this hall on Thursday evening next at candle lighting, that the clerk be directed to inform the Council of the passage of this resolution, and that a committee of two be appointed to respectfully invite the attendance of the Governor and Secretary of the Territory.

Mr. Cox moved that the preamble and resolution be laid on the table. Not agreed to.

Mr. Cox then called for the yeas and nays on the adoption of the resolution, which are as follow:

Yeas—Messrs. Blair, Brierly, Coop, Delashmutt, Grimes, Hall, Nowlin, Patterson, Price, Roberts, Summers, Swan, Taylor, Temple and Thornton—15.

Nays—Messrs. Bankson, Bailey, Beeler, Cox, Frierson, Hastings, Parker, Porter, Toole and Wallace, Speaker—10.

So the resolution was adopted, and Messrs. Taylor and Nowlin were appointed the first committee, and Messrs. Hastings and Price the second committee therein named.

On motion of Mr. Taylor,

Bill No. 53, Council file, an act to authorize Aaron White to keep a ferry across the Mississippi river at the town of Fort Madison, was taken from the table, read a second time, and considered in committee of the whole, Mr. Beeler in the chair. The bill was reported to the House by the Chairman of said committee with amendments, which were concurred in.

The rules relating to the second and third reading on different days, was then, on motion, temporarily suspended, and said bill read a third time and passed.

Ordered, That the clerk acquaint the Council therewith.

Mr. Cox offered the following:

Whereas, by the organic law, the sessions of the Legislative Assembly are limited to seventy five days; and whereas on Friday next this Legislative Assembly will have been in session seventy five days; Therefore,

Resolved, That Messrs. Bailey, Frierson and Taylor be appointed a committee to wait on His Excellency Governor Lucas, that if he has any communications to lay before the Legislature, they are ready to receive them. Which was adopted.

Mr. Nowlin offered the following:

Resolved, That Jabez A. Burchard, jr. member of the House of Representatives, be allowed pay from the commencement to the close of the present session, with the usual mileage paid to members of the House of Representatives.

Mr. Summers moved an amendment to the resolution as follows: Strike out "commencement," and insert "time he took his seat:" which amendment was lost.

The yeas and nays being called for, were as follow:

Yeas—Messrs. Beeler, Frierson, Parker, Summers and Toole—5.

Nays—Messrs. Bankson, Bailey, Blair, Brierly, Coop, Cox, Delashmutt, Grimes, Hall, Hastings, Nowlin, Patterson, Porter, Price, Roberts, Swan, Taylor, Temple, Thornton and Wallace, Speaker—20.

The resolution was then adopted.

On motion of Mr. Temple,

The vote on the passage of bill No. 154, was reconsidered.

Mr. Swan then obtained the unanimous consent of the House to add a section to the bill. The bill passed, and the title thereof was agreed to.

Mr. Hall moved the suspension of the resolution prohibiting the introduction of new business after the 16th inst. The motion was lost.

The House adjourned.

Wednesday, January 23, 1839.

Mr. Swan from the committee on enrolments reported as correctly enrolled the following entitled acts and memorial:

An act concerning costs and fees.

An act to incorporate the town of Bloomington.

An act for the relief of the sheriffs of Lee and Scott counties.

An act for the relief of the sheriff of Cedar county.

Memorial to Congress on the subject of settlements on school lands.

Said acts and memorial were signed by the Speaker and ordered to be presented to the President of the Council for his signature.

On motion of Mr. Grimes,

Resolved, That Wm. B. Conway Secretary of the Territory, be instructed and required to pay to Dr. Enos Lowe, post master at the city of Burlington, the sum of one hundred and eighty dollars.

On motion of Mr. Grimes,

Ordered, That the vote given last evening on the adoption of a resolution offered by Mr. Taylor in relation to the delivery of a sermon in this Hall on Thursday evening next, be reconsidered.

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

The Speaker announced the following message from his Excellency the Governor of the Territory:

EXECUTIVE DEPARTMENT IOWA TERRITORY,
January 23, 1839.

To the House of Representatives of the Legislative Assembly.

GENTLEMEN,—I have examined the bill presented for my consideration entitled An act to provide for the compensation of the sheriffs of the different counties of the Territory for ordering elections and posting up notices.

The first section of which commences as follows:

"SEC. 1. Be it enacted by the Council and House of Representatives of the Territory of Iowa, that there shall be paid out of the sum appropriated by Congress for defraying the expenses of the Legislative Assembly of Iowa for the year 1838—'9," naming the different sheriffs and sums respectfully allowed.

This bill in my estimation is defective and does not secure to the gentlemen therein named the several sums therein allowed. If the intention of the bill was to pay these allowance out of the appropriation made by Congress to defray the expenses of the present Legislative Assembly, it should have been so expressed; but if it was the intention to have them paid out of the sum that may be appropriated by Congress to defray the expenses of the next Legislative Assembly, I consider that the Legislative Assembly, exceeded their power in passing it. As I observed on a former occasion, I do not believe this Legislative Assembly possesses any power to control either directly or indirectly the appropriation of money that may be appropriated by Congress to defray the expenses of the Legislative Assembly.

If the principle was admitted that this Legislative Assembly has the right to control the application of one dollar of the appropriation that may be made by Congress to defray the expenses of the next Legislative Assembly, they may upon the same principle expend the whole and leave the next Legislative Assembly without the means of defraying the necessary expenses of the session. This would be so glaring a perversion of the intention of the act of Congress, that I think the right to do so by this Legislative Assembly cannot for a moment be contended for. I therefore respectfully solicit the attention of the Legislative Asssembly to this subject and suggest that a modification may be made in the bill to provide for the payment out of the allowances of the territorial treasury. Or should Congress in their liberality see proper to make an appropriation to pay the excess of expenditures of the present Legislative Assembly over the appropriation heretofore made, a conditional provision might be inserted in the bill to pay these allowances out of such appropriation.

The principles of the bill, making the allowance to the gentlemen therein named, I approve, but return it with the foregoing suggestion, with the hope that it may be modified so as to secure, in some way, the payment of the sum therein allowed.

Very respectfully, yours, &c.

ROBERT LUCAS.

On motion of Mr. Grimes,

The House resolved itself into a committee of the whole, on the foregoing message and the bill therein alluded to, Mr. Brierly in the chair. The committee, by their chairman, reported the bill with

amendments, in which the House concurred, and ordered that the 16th and 18th rules be suspended in relation to the bill. The same was then read a third time and passed.

Ordered, That the Council be informed of amendments made thereto.

Mr. Hastings made a motion that the House take from the table a resolution, offered by himself, on the subject of a correspondence of the Secretary of the Territory, and of the latter with Mr. Parvin, in relation to procuring stationary, &c.

Mr. Nowlin moved that the motion of Mr. Hastings be laid on the table. Agreed to.

On motion of Mr. Grimes,

Ordered, That the vote just given, on the motion of Mr. Nowlin, be re-considered and the motion of Mr. Hastings agreed to.

The question of the adoption of the resolution referred to, was then put, and determined in the affirmative.

The yeas and nays being called for, were as follow:

Yeas—Messrs. Bailey, Beeler, Blair, Brierly, Coop, Delashmutt, Frierson, Grimes, Hastings, Patterson, Parker, Porter, Price, Roberts, Summers, Taylor and Temple—17.

Nays—Messrs. Cox, Hall, Nowlin, Thornton, Toole and Wallace, Speaker—6.

Mr. Cox, from the select committee, appointed yesterday, to inquire into the amount of business yet unfinished in the Legislative Assembly, made report in relation thereto.

On motion of Mr. Cox,

Ordered, That the chief clerk be instructed to employ such additional clerks as he may deem necessary to complete the enrollment of bills of the House of Representatives, and that he be authorized to allow them such compensation as he thinks proper.

On motion of Mr. Price,

The vote of yesterday, by which the House refused to concur in the report of the committee of the whole, who had under consideration bill No. 74, An act providing for the organization of the county of Clinton, &c. was re-considered.

The House then concurred in the report of the committee, and ordered that the 16th and 18th rules be suspended in relation to said bill, which was then read a third time, passed, and

Ordered to be sent to the Council for concurrence.

On motion of Mr. Brierly,

The vote of last evening was re-considered, by which the House concurred in the report of the committee of the whole, which had under consideration bill No. 51, Council file, An act to establish a ferry across the Mississippi river at the town of Fort Madison.

The question was then put, "will the House concur in the report of the committee?" and determined in the negative.

Mr. Taylor then moved that "twenty" be stricken from the 1st section, and "ten" inserted in lieu thereof. Agreed to.

Mr. Patterson made a motion to strike from the 1st section the word "Broadway" and insert "Elm," which motion was agreed to.

Mr. Taylor then made a motion to amend the 2d section by striking out "two" and inserting "one;" Agreed to.

On motion the rules were suspended and said bill read a third time. The question was put, "shall the bill pass?" and determined in the affirmative.

The yeas and nays being called for, were as follow:

Yeas—Messrs. Beeler, Brierly, Coop, Frierson, Hall, Nowlin, Patterson, Price, Roberts, Summers, Swan, Taylor and Wallace, Speaker—13.

Nays—Messrs. Bankson, Bailey, Blair, Cox, Delashmutt, Grimes, Hastings, Parker, Porter, Temple, Thornton and Toole—12.

Ordered, That the Council be informed.

Mr. Swan offered the following:

Resolved, That the chief clerk be allowed the sum of three hundred dollars for transcribing, indexing and superintending the printing of the journal of this House, in pamphlet form.

Mr. Beeler moved to amend the resolution, by striking out "three" and inserting "two."

The amendment was lost and the resolution adopted.

The yeas and nays being called for, were as follow:

Yeas—Messrs. Bankson, Blair, Cox, Delashmutt, Frierson, Hall, Hastings, Nowlin, Summers, Swan, Taylor, Temple, Toole and Wallace, Speaker—14.

Nays—Messrs. Bailey, Beeler, Brierly, Coop, Grimes, Patterson, Parker and Price—8.

On motion of Mr. Nowlin,

Bills Council file, No. 16, 26 and 28, were taken from the table, read a second time and consider in committee of the whole, Mr. Coop in the chair. The committee after some time, by their chairman reported said bills with amendments, in which the House concurred, and

Ordered, That the rules be suspended in reference to bill No. 16, which bill was then read a third time and passed.

Ordered, That the Council be informed.

On motion, the House adjourned until 2 o'clock, P. M.

2 O'CLOCK, P. M.

Mr. Grimes moved that a call of the House be had. The motion was agreed to and the Sergeant-at-arms sent for absentees.

The Secretary of the Council, Mr. Wallace, being introduced, delivered the following message:

Mr. Speaker,—

I am directed to inform the House that the Council have passed bills of the House as follows, without amendment, viz:

No. 103, An act to provide for the appointment of a Territorial Treasurer, and defining his duties.

No. 118, An act concerning bills of exchange.

No. 121, An act to organize the county of Jones and establish the seat of justice thereof.

No. 122, An act to incorporate the Burlington and Iowa river turnpike company.

The Council has also passed bills of the House, No. 120, An act to locate a territorial road from the town of Du Buque to Keasauqua, in Van Buren county, and

No. 61, An act to restrain unincorporated banking associations, with amendments.

Also, a joint resolution on the subject of adjourning the two Houses on Friday next, 25th inst. at 10 o'clock, A. M. In all of which the concurrence of the House is requested.

I also herewith return the following bills of the House, the same having been signed by the President of the Council.

An act to establish the several seminaries herein named.

An act fixing the time and place for the annual meeting of the Legislative Assembly.

An act to authorize Hiram C. Smith and Cordell to erect a dam across Skunk river.

An act relative to proceedings in chancery.

An act regulating the action of replevin.

I also herewith present for your signature, An act to establish the boundary lines of Washington county. And then he withdrew.

The amendments of the Council to bills, H R file, No. 61, An act to restrain unincorporated banking associations, and

No. 120, An act to locate a territorial road from Du Buque to Keasauqua, in Van Buren county, were read and concurred in.

Resolution from the Council on the subject of the adjournment of the two Houses on Friday next at 10 o'clock, A. M. was read and laid on the table.

Mr. Bailey, from the committee appointed yesterday to wait on his Excellency, the Governor, reported the committee had performed that duty, and were informed by his Excellency, that he had no communication to make at present to the Legislative Assembly, nor would he have during the present session, unless there should be a legislative subject presented for his consideration which he might deem to be inconsistent.

The House then adjourned to 6½ o'clock, P. M.

6½ O'CLOCK, P. M.

Mr. Beeler from the joint committee on enrollments, reported the following entitled acts to have been this day presented to the Governor for his approval; viz:

An act to establish the several seminaries herein named.

An act for the relief of the sheriff of Cedar county.

An act fixing the time and place for the annual meeting of the Legislative Assembly.

An act to authorize Hiram C. Smith and Cordell, to erect a dam across Skunk river.

An act providing for the relief of sheriffs of Lee and Scott counties.

An act regulating the action of replevin.

An act to incorporate the town of Bloomington.

An act concerning costs and fees.

An act relative to proceedings in chancery.

And a memorial to Congress on the subject of settlements upon school lands. Also,

An act for the incorporation of Public Libraries.

Mr. Nowlin, from the joint committee on enrollments reported, as

correctly enrolled, An act to incorporate the Burlington and Iowa river turnpike company. Which act was signed by the Speaker and the clerk directed to present the same for the signature of the President of the Council.

Mr. Nowlin, from the committee on the judiciary, reported bill No. 155, entitled An act to prevent forcible entry and detainer. Said bill was read a second time and considered in committee of the whole, Mr. Delashmutt in the chair. The committee, by their chairman, reported said bill with amendments in which the House concurred and ordered that the bill be engrossed for a third reading.

Mr. Wallace, the Secretary of the Council, being introduced delivered the following message:

Mr. Speaker,—

I am directed to present for the concurrence of the House of Representatives, bill No. 59, An act to provide for the management and safe keeping of the Territorial Library, the same having passed the Council.

I am further directed to inform the House, that the Council have passed bills of the former as follow:

No. 112, An act to preserve good order in all worshipping congregations in this Territory, with amendments; and

No. 130, An act to provide for the collection of taxes, off the half breed lands, in Lee county; without amendment. In which amendments the concurrence of the House is requested. And then he withdrew.

On motion, The vote by which bill No. 155, was ordered to be engrossed, was re-considered, the 16th and 18th rules temporarily suspended, and said bill read a third time and passed.

Mr. Cox offered the following:

Resolved, By the Council and House of Representatives, That William B. Conway, Secretary &c., be, and he is hereby requested and empowered to take possession of, and securely keep until the next meeting of the Legislature of this Territory, all the furniture which is now in the House occupied by the Legislative Assembly. The resolution was adopted.

Mr. Hastings, from the committee on the judiciary, reported bill No. 156, An act to provide for a territorial revenue. Which bill was read a second time, and considered in committee of the whole, Mr. Frierson in the chair. The bill was reported by the chairman of the committee with an amendment, in which the House concurred, and ordered, that the rules be suspended in relation to the bill. The same was then read a third time, passed, and title agreed to.

Ordered, That said bill last named, and resolution be sent to the Council for concurrence.

Bill No. 59, Council file, entitled An act for the management and safe keeping of the Territorial Library, was taken up and read a first time.

On motion the rule requiring that bills be printed was suspended, in relation to said bill, and the same read a second time, and considered in committee of the whole, Mr. Grimes in the chair. The bill was reported to the House with amendments, a part of which were concurred in.

On motion of Mr. Grimes,

The bill was amended further by inserting the following after the word "Legislature" in the 4th section, to wit:

"Officers of the Legislature, and officers of the supreme court during the present session."

Mr. Hastings made a motion that the vote by which the salary of Librarian was made to be two hundred dollars, be re-considered.

On which motion, the yeas and nays were called, and are as follow:

Yeas—Messrs. Bailey, Beeler, Blair, Brierly, Coop, Grimes, Hastings, Nowlin, Patterson, Parker, Swan, Taylor, Thornton, Toole and Wallace, Speaker—15.

Nays—Messrs. Bankson, Cox, Delashmutt, Frierson, Hall, Roberts, Summers and Temple—8.

So the vote was not reconsidered.

On motion of Mr. Nowlin,

Said bill was laid on the table until the first Monday in February next.

Mr. Nowlin from the committee on enrollments, reported

An act to organize the county of Jones, as correctly enrolled-- which was then signed by the Speaker, and sent to the President of the Council for his signature.

Bill No. 112 as amended by the Council, was taken up and the amendments concurred in.

Mr. Cox moved to adjourn, which was disagreed to.

The yeas and nays being called for were as follow:

Yeas—Messrs. Brierly, Cox, Frierson, Nowlin, Roberts and Toole—6.

Nays—Messrs. Bailey, Beeler, Coop, Delashmutt, Grimes, Hall, Hastings, Patterson, Parker, Summers, Swan, Taylor, Temple, Thornton and Wallace, Speaker—15.

Mr. Swan moved to reconsider the vote by which bill No. 59, C. F. was laid on the table, when

Mr. Taylor made a motion to adjourn, which was not agreed to.

A call of the House was then had and absent members sent for.

Mr. Grimes moved that the call of the House be suspended, when

Mr. Cox moved that the House adjourn, which was not agreed to.

The yeas and nays being called for and were as follow:

Yeas—Messrs. Coop, Cox, Delashmutt, Frierson, Nowlin, Parker, Roberts, Summers, Thornton and Toole—10.

Nays—Messrs. Bailey, Beeler, Brierly, Grimes, Hall, Hastings, Patterson, Swan, Taylor, Temple and Wallace, Speaker—11.

On motion of Mr. Bailey, the House adjourned.

Thursday, January 24, 1839.

Mr. Wallace, the Secretary of the Council, was introduced and delivered the following message:

Mr. Speaker,—

I am directed to inform the House that the Council have passed bills of the House as follows; without amendment, viz:

No. 123, An act regulating the issuing of writs of ne exeat and injunctions.

No. 154, An act to authorize the Governor to call a special session of the Legislative Assembly.

No. 146, An act to improve the police of the city of Burlington.

No. 151, An act concerning seals.

No. 140, An act to incorporate the Keasauqua Lyceum.

The Council have also passed bills of the House as follow; with amendments.

No. 145, An act to provide for the sale of lands located upon, by the county commissioners of Henry county, &c. and

No. 141, An act providing for the recording of town plats.

In all of which the concurrence of the House is requested.

The Council have also concurred in amendments made by the House, to bill No. 40, Council file, An act to provide for the appointment of notaries public, and to prescribe their duties.

Bill No. 42, Council file, An act to legalize the acts of county commissioners; and

Bill No. 51, Council file, An act to establish a ferry across the Mississippi river, at Fort Madison.

I am also directed to inform the House, that the Council insist on their amendment to the 12th section of bill No. 41, of the House, entitled An act subjecting real and personal estate to execution, and have appointed Messrs. Whittlesey, Parker and Payne, a committee of conference in relation thereto.

The Council also insist on their amendment to the 23d section of said bill, No. 41, H. R. file, and have appointed Messrs. Hempstead, Hepner and Payne, a committee of conference in relation to the same.

The Council also insist on their amendments made to the 1st, 9th, 10th and 15th sections of bill No. 92, H. R. file, An act establishing certain territorial roads, and have appointed Messrs. Parker, Hughes and Lewis, a committee of conference in relation thereto.

The Council have receded from their amendment, to the 16th section of said bill.

The Council have also receded from their amendments made to the 9th and 12th sections of bill No. 99, H. R. file, An act providing for and regulating general elections in this Territory, and insist upon their amendments to the 10th, 14th, 25th and 28th sections of said bill, and have appointed Messrs. Payne, Parker and Keith, a committee of conference in relation to the same.

I also herewith return the following bills of the House, the same having been signed by the President of the Council.

An act to organize the county of Jones, and establish the seat of justice thereof.

An act to incorporate the Burlington and Iowa river turnpike company.

And then he withdrew.

Mr. Beeler from the committee on enrollments, reported as correctly enrolled the following, acts:

An act concerning bills of exchange.

An act to preserve good order in all worshipping congregations in this Territory.

An act to provide for the appointment of a Territorial Treasurer, and defining his duties.

An act to restrain unincorporated banking associations.

An act to incorporate the Burlington and Des Moines Transportation Company.

An act for the election of constables, and defining their duties.

The said acts were signed by the Speaker, and the clerk directed to present them to the President of the Council for his signature.

On motion of Mr. Swan,

Ordered, That committees of conference be appointed to act in conjunction with similar committees, appointed on the part of the Council in relation to the disagreeing vote of the two Houses, upon amendments made by the Council, to bills H. R. file, No. 41, An act subjecting real and personal estate to execution.

No. 92, An act establishing certain territorial roads, and

No. 99, An act providing for and regulating general elections in this Territory.

Whereupon, the chair appointed Messrs. Swan, Nowlin and Parker, a committee to act in relation to bill No. 41. Messrs. Summers, Price and Roberts, to No. 92, and Messrs. Bailey, Grimes and Swan, to No. 99.

The Speaker announced a communication from the Hon. Wm. B. Conway, Secretary of the Territory respectfully acknowledging the receipt of a resolution passed by this House on yesterday, "relative to procuring stationary for the use of the Legislature."

SECRETARY'S OFFICE,
TERRITORY OF IOWA, JAN. 24, 1839. }

To the Honorable the Speaker of the House of Representatives.

SIR,—A resolution adopted by the Honorable the House of Representatives, on yesterday, has been transmitted to this Department, of which this will be received as a respectful acknowledgment.

The resolution, now considered, requires the production and submission of copies of *parts* of a correspondence, between his Excellency, Governor Lucas,—the Secretary of the Territory, and a certain Mr. Parvin, "relative to procuring stationary for the use of the Legislature." This is an exceedingly vexatious subject. The interference of the Executive with this department, "relative to procuring stationary for the use of the Legislature," has already occasioned much trouble.

The "Mr. Parvin," mentioned in your resolution, by the presentation of his person, arrested the attention of the Secretary of the Territory near his residence, opposite Rock Island, and then and there communicated the very important intelligence, that he (the person last named in your resolution) was on his way to Cincinnati; and that it was his own wish and the wish of Governor Lucas, of

whose wishes he was then and there understood to be the interpreter,—and whose opinions he was then and there understood to expound: The Secretary was thus informed, that it was, their wish, that the stationery should be purchased at Cincinnati;—*because* the Mr. Parvin, of whom your resolution speaks, was then going back to the State of Ohio.

The Secretary did not rashly assent to this bewitching proposal. In a few days, however, a letter was received from Governor Lucas, setting forth the same important fact, that the person last named in your resolution, was gone, or a going to Cincinnati, where stationery could be had “cheaper.” To this letter, from the Governor, the Secretary replied, and proposed a “conference” with the Executive, at Burlington, to consider the character of the action which should be had on account of the visit aforesaid to Cincinnati, which the Executive Department had so graciously announced. And, in accordance with this proposition, the Secretary was obliged to put out, on board the old steam boat ‘Science’ (then on her way from Snake Diggins,) when the water was low—the weather warm—the musquetoos furious—the crew sickly and provisions scarce; and in this situation, he had to weather it out for four long nights and days, in a passage from Rock Island to Burlington—and all on account of this Cincinnati stationery—all *because* the Mr. Parvin, whose name is set out in your resolution, wished to make a visit back to Ohio, and because Governor Lucas, therefore, believed, that stationery could be had cheaper by the proposed arrangement.

Immediately after the arrival of the Science, at this port, the Secretary saw the Governor, and having enjoyed his conversation, it was agreed, that the person last named in your resolution should purchase the stationery at Cincinnati; and accordingly a letter was written, by the Secretary, in the Governor’s office, granting authority to purchase the stationery, in conformity with the Executive desire, beginning, as if with the pen of prophetic cautiousness—“In compliance with the suggestion of Governor Lucas, I hereby authorize” &c.

A bill of upwards of \$800, for articles purchased from E. Lucas, & Co. was returned; but the articles were so entirely *stationary* that they did not arrive, and the Secretary was obliged to go to St. Louis for other articles in the same line; and in returning he was detained ten days and eleven nights at the foot of the rapids, until every particle of provisions was used up; and then he had to put out in wagons, subject to all the inconveniences which usually attend unseasonable operations;—and since the commencement of the session, it is believed, that more stationery has been consumed, in discussing matters connected with this Cincinnati purchase, than with any other item of Territorial Legislation; nor can it be considered, either directly, or in any of its incidental bearings, without calling up the painful recollection of associated troubles, by land and water, which it would be extremely refreshing to be allowed to forget.

And now, when the Secretary is actively engaged in the performance of arduous duties—duties that would crush a feeble man; when he is obliged, from day to day, to go from house to house, to seek for money, to pay the balances due the members of the Legislature, the

clerks and other officers, and that, too, in his character of fiscal agent, *whither* under the malediction of an executive veto;—when he is laboring night and day to adjust his large accounts, deeply interested in ascertaining whether he has all his certificates and receipts, before the members disperse, that he, too, may return to his home, which he has not seen for more than three months: At this juncture, and under these circumstances, he is met by a requisition, concerning that Cincinnati stationery,—a subject of all others the most unwelcome,—and this requisition imposes duties with which a compliance, at this time, is almost impossible. Arrearages are still due to some of the members, clerks and other officers of the Legislature, and there is not a dollar to meet these demands, until the Secretary shall have procured money for this purpose from some of our enterprising citizens, to whose liberality the Territory is already indebted, in a manner which the Secretary shall not fail to make known. And, under these circumstances, will the Secretary be required to sit down, and copy the correspondence about that Cincinnati stationery, which, up to this moment, he has never seen?

The resolution of the Honorable the House of Representatives, is also understood to require the Secretary to “furnish FUNDS for the payment” of the stationery purchased, or alleged to have been purchased, from Lucas & Co of Ohio. Does this not appear like a strange requisition? It is well known, that the Congressional appropriation, which was placed in the hands of the Secretary, is long since exhausted, and that he has borrowed, and paid out, thousands of dollars, as “fiscal agent” of the Legislature, for and during the present session. Now the amount of the bill of Lucas & Co. of Ohio, is claimed by Governor Lucas here as part of the Library fund, to the judicious expenditure of which the literary taste of this Territory is already so deeply indebted. And shall the Secretary of the Territory, as *fiscal agent*, be seriously required to negotiate loans, on his own responsibility, to pay a man, who with all the solemnity of an Executive veto, denied the *authority* by which that fiscal agent was appointed, and viewed him through a medium, which gave him the aspect of a person “legally unknown.” And shall money be collected and expended in this way, to pay for stationery that has never been delivered? And shall upwards of \$800 be paid for stationery to be used by the rats, after the adjournment, or not used at all for nine months to come? As well might we lay in our next winter’s wood and candles! And shall this course be adopted when the Secretary cannot advance a dollar to Messrs. Clarke & McKenny, and other worthy men, who have rendered service to the Territory?

And it may be well to remember, that we have not yet paid for the stationery which we *have already used*!

It is believed, by this department, that the object of the resolution is to renew, or validate, by Legislative action, a contract, which non-performance has rendered void. And shall this be done by calling for a useless and uninteresting correspondence, by artfully embracing in that call a demand for money, and that from an officer whose fiscal character was, with the sternness of ill-nature, so solemnly denied?

It is believed, by the Secretary of the Territory, that the Honor-

able the House of Representatives will not permit itself to be dislodged, by fraud or force, from the lofty principles upon which a large majority of its members have taken a stand, with the just pride of conscious rectitude and independence; it is not believed, that they will stoop down to aid a project so entirely destitute of every reasonable claim to indulgent consideration. The Secretary, therefore, prays the House to reconsider, and rescind, the resolution of yesterday, and no injustice can be done by its revocation; because if the bill of stationery, purchased, or alledged to have been purchased, by the person last named in your resolution, from Lucas & Co. of Ohio, if this bill be one which the Secretary should pay, a special order, from the Treasury Department of the United States, will meet with prompt compliance, by the Secretary *as the Secretary*, but certainly not as fiscal agent.

With high regard, your very obedient

and respectful servant,

WM. B. CONWAY,

Secretary of the Territory.

The amendments made by the Council, to bills No. 141, An act providing for the recording of town plats, and

No. 145, An act to provide for the sales of land located upon by the county commissioners of Henry county, were read and concurred in.

The following communication was received from the Hon. Wm. B. Conway:

SECRETARY'S OFFICE,

TERRITORY OF IOWA, JAN 24, 1839. }

To the Honorable Wm. H. WALLACE, *Speaker of the House of Representatives.*

SIR,—The Secretary of the Territory, would respectfully request the Honorable the House of Representatives, to order duplicate copies of all the resolutions involving the expenditure of money, that the same, if joint, may be forwarded to the Council, for the signature of the Hon. the President of that body, and if separate, signed by the Honorable the Speaker, of the House of Representatives, and countersigned by the chief, or principal clerk.

The Secretary would avail himself of this occasion to inform the Honorable the House of Representatives, that all the memorials which have been transmitted to this office, have been multiplied, by copies, to the extent required, and forwarded according to order.

Very respectfully,

Your obedient servant,

WM. B. CONWAY,

Secretary of the Territory.

On motion of Mr. Grimes,

Ordered, That the chief clerk be instructed to furnish the Secretary, resolutions in the manner referred to in the foregoing communication.

Mr. Hastings, from the committee on the judiciary, reported bill No. 157, An act to prevent trespass and other injuries, from being done to the possessions of settlers, &c.

On motion the rules of the House were suspended in relation to said bill, and the same read a second time, and considered in committee of the whole, Mr. Hall in the chair, reported with an amendment which was concurred in, and read a third time, passed, title agreed to, and

Ordered, to be sent to the Council for concurrence.

On motion of Mr. Blair,

The House adjourned to two o'clock, P. M.

2 O'CLOCK, P. M.

Mr. Beeler from the committee on enrollments reported, that

An act to incorporate the Burlington and Des Moines Transportation Company;

An act to organize the county of Jones, and establish the seat of justice thereof;

An act to incorporate the Burlington and Iowa River Turnpike Company, were this day laid before the Governor for his approval.

The committee have also examined the following entitled acts, and find them correctly enrolled:

An act to provide for the collection of taxes off the half breed lands in Lee county.

An act concerning vagrants.

An act to incorporate the Keasauqua Lyceum.

An act respecting seals.

An act concerning amendments and jeofails.

An act to improve the police of the city of Burlington.

An act for assessing and collecting county revenue.

Mr. Bailey from the committee of conference, appointed to confer with a similar committee of the Council, on the disagreement of the two Houses on An act regulating general and special elections, reported that the committee had agreed to the amendments of the Council.

The House concurred in the report of the committee.

On motion of Mr. Grimes,

Ordered, That Jacob S. Rinearson, recording clerk, be allowed the sum of \$30 extra for recording the journal after the Legislature adjourns.

On motion of Mr. Nowlin,

Resolved, That the resolution of yesterday which was hastily called from the table, requiring a submission from Wm. B. Conway, of his correspondence with the Executive, relative to the purchase of stationery, be re-considered and that the account involved therein, be referred to the Secretary of the Treasury of the United States, or to the next Legislature of this Territory, as the persons interested in said account, may deem most advisable and proper.

On motion of Mr. Grimes,

Resolved, That the Secretary of the Territory, be now respectfully requested to submit to this House, a copy of his correspondence, with his Excellency Governor Lucas, relative to the purchase of stationery at Cincinnati, or such portions thereof as may be of

a business character, if the performance of this duty be practicable, duly considering the other duties of the Secretary.

Mr. Wallace, the Secretary of the Council, being introduced, delivered the following message:

Mr. Speaker,—

I am directed to inform the House of Representatives, that the Council have concurred in resolution of the House, asking an increase of the per diem of members of the Legislative Assembly, with one amendment; also,

The memorial of the House, to the President of the United States, asking the removal of Governor Lucas, with one amendment, in both of which amendments the concurrence of the House is requested.

I also herewith return several bills of the House, the same having been signed by the President of the Council.

I also present for your signature, An act to authorize the holding of the district courts, in the county of Jefferson, and

An act regulating practice in the district courts of the Territory of Iowa. And then he withdrew.

Memorial to the President of the United States, for the removal of the present Governor of the Territory, as amended by the Council, was read and concurred in.

The yeas and nays being called for, were as follow:

Yeas—Messrs. Blair, Cox, Delashmutt, Grimes, Hall, Hastings, Nowlin, Roberts, Summers, Swan, Taylor, Temple, Toole and Wallace, Speaker—14.

Nays—Messrs. Bailey, Beeley, Brierly, Coop, Frierson and Price—6.

Mr. Swan, from the committee of conference, appointed to act with a like committee from the Council, in relation to bill No. 41, H. R. file, An act subjecting real and personal estate to execution, reported that the committee had agreed to concur in the amendments made by the Council to said bill.

The report was concurred in by the House.

On motion of Mr. Grimes,

The rules of the House were for the time being suspended, and he permitted to introduce a bill No. 158, An act supplementary to an act, for assessing and collecting county revenue.

Said bill was read a first time, the rules further suspended in reference to the same, and the bill read a second and third time, passed, and title agreed to.

Ordered, That the bill be sent to the Council for concurrence.

Mr. Summers from the committee of conference appointed on this morning to confer with a like committee of the Council, in relation to amendments made by the latter, to An act establishing certain territorial roads, reported that the joint committee, had agreed to concur in the amendments of the Council, to the 9th and 10th sections of said bill and to recede from that made to the 15th section thereof.

The report was concurred in.

Mr. Hastings offered the following:

Resolved, That William Dupont be allowed five dollars per day,

for seventy eight days service, as fireman to this House.

The resolution was rejected.

Mr. Grimes made a motion that the vote by which a bill of the Council, entitled An act to provide for the management and safe keeping of the Territorial Library, was laid on the table until February next, be reconsidered; which motion was agreed to.

Mr. Taylor then moved that the word "two" before "hundred" in the first section of said bill, be stricken out, and the word "one" inserted. Agreed to.

On motion of Mr. Grimes,

The rules were suspended in relation to the bill, and the same read a third time and passed.

Ordered, That the Council be informed of amendments to said bill.

Resolution on the subject of the per diem pay of members of the Legislative Assembly, as amended by the Council, was read and concurred in.

Mr. Hasting offered the following:

Resolved, That William Dupont be allowed four dollars per day, for seventy eight days service, as fireman to this House.

The resolution was rejected.

Mr. Cox offered the following:

Resolved, That the thanks of this House, be tendered to the Speaker thereof, for the able and impartial manner in which he has discharged the duties of his office, while presiding over the deliberations of this House.

The resolution was adopted.

The yeas and nays being called for, were as follow:

Yeas--Messrs. Beeler, Blair, Brierly, Coop, Cox, Delashmutt, Frierson, Grimes, Hall, Nowlin, Patterson, Price, Roberts, Summers, Taylor, Temple, Thornton and Toole--18.

Nays--Messrs. Bailey, Hastings and Parker--3.

On motion of Mr. Hastings,

Resolved, That William Dupont be allowed nine dollars for three days service, in making preparations for the accomodation of the House of Representatives.

Bill No. 54, Council file, was read a first time, rule suspended, the bill read a second time, considered in committee of the whole, Mr. Cox in the chair, reported without amendment, and report concurred in by the House.

The rules were then further suspended, and the bill read a third time and passed.

Ordered, That the Council be informed.

Bill No. 149, An act to relocate the seat of justice of Van Buren county, as amended by the Council, was taken up.

Mr. Hall asked for a call of the House. The Speaker directed the Sergeant-at-arms to bring in absentees.

After some time, the call of the House was dispensed with, when Mr. Grimes moved to amend the amendment of the Council, by striking out "five thousand" and inserting "two thousand," to which the House disagreed.

The yeas and nays being called for, were as follow:

Yeas—Messrs. Grimes, Hall, Nowlin, Summers, Temple, Thornton and Wallace, Speaker—7.

Nays—Messrs. Bailey, Beeler, Blair, Brierty, Coop, Cox, Delashmutt, Frierson, Hastings, Patterson, Parker, Porter, Price, Taylor and Toole—15.

Mr. Bailey then made a motion, that the House concur in the amendments made by the Council; which motion was agreed to.

The yeas and nays being called for, were as follow:

Yeas—Messrs. Bailey, Beeler, Brierty, Coop, Cox, Delashmutt, Frierson, Grimes, Hastings, Patterson, Parker, Porter, Price, Taylor and Toole—15.

Nays—Messrs. Blair, Hall, Nowlin, Summers, Temple, Thornton and Wallace, Speaker—7.

On motion of Mr. Nowlin,

Resolved, That J. B. Whitesides, be allowed the sum of five dollars, for furnishing this House with tin buckets and cups, during the session.

On motion of Mr. Frierson,

Resolved unanimously, that Joseph T. Fales is entitled to the thanks of this House, for the able and efficient manner in which he has discharged the duties of chief clerk thereof, during the present session.

Bill No 138, as amended by the Council, concurred in.

On motion of Mr. Grimes,

Resolved, That John C. Sleeth be allowed the sum of twenty dollars for furnishing wood and making fires, at the commencement of the session.

Mr. Hall offered the following:

Whereas the hour of final adjournment is near, when the members of this Legislative Assembly will return to their constituents, from the first, and it is to be hoped the most stormy and unpleasant session of Iowa. And whereas the sentence of condemnation has gone forth from this body against the Chief Magistrate of this Territory, for reasons which time, truth and justice will sustain, it is due to ourselves to discriminate between faithful and unfaithful public servants, between competent and incompetent officers; Therefore

Resolved, By the Council and House of Representatives of the Territory of Iowa, that they repose full faith and confidence in the talents and integrity of the Hon. Wm. B. Conway, Secretary of the Territory, whose conciliating manners and firmness of purpose, connected with his energy, fidelity and efficiency as a public officer, and especially his arduous exertions to procure money to pay the expenses of this Legislative Assembly, entitle him to our thanks, our esteem and friendly recollections.

Resolved, That a copy of the foregoing preamble and resolution be forthwith communicated to the Honorable the Secretary of the Territory.

The question on the adoption of the same being put, was decided in the negative.

The yeas and nays being called for, were as follow:

Yeas—Messrs. Cox, Delashmutt, Hall, Nowlin, Roberts and Toole—6.

Nays—Messrs. Bailey, Beeler, Blair, Brierly, Frierson, Grimes, Hastings, Patterson, Parker, Price, Taylor, Temple and Thornton—13.

On motion, the House adjourned to 6 o'clock, P. M.

6 O'CLOCK, P. M.

Mr. Taylor offered the following:

Resolved, That the Council be requested to assemble in the Representatives' Hall at 8 o'clock this evening, for the purpose of going into an election for commissioners, to superintend the erection of a Penitentiary at Fort Madison, in Lee county.

Mr. Grimes moved to lay the resolution on the table, which was disagreed to, and the resolution was adopted.

Mr. Beeler from the joint committee on enrollments reported the following entitled acts to have been this day presented to the Governor for his approval:

An act to restrain unincorporated banking associations;

An act to provide for the appointment of a Territorial Treasurer and defining his duties;

An act to preserve good order in all worshipping congregations in this Territory;

An act for the election of Constables, and defining their duties;

An act concerning bills of exchange.

Mr. Price, also from the same committee reported the following entitled acts to have been this day presented to the Governor for his approval, viz:

An act for assessing and collecting county revenue;

An act to improve the police of the city of Burlington;

An act concerning amendments and jeofails;

An act to provide for the collection of taxes off the Half Breed lands in Lee county;

An act respecting seals;

An act concerning vagrants;

An act to incorporate the Keosauqua Lyceum.

Mr. Nowlin from the joint committee on enrollments reported the following entitled act to have been correctly enrolled:

An act to provide for the erection of a Penitentiary, and establishing and regulating a prison discipline for the same; which act was signed by the Speaker, and the clerk directed to present it for the signature of the President of the Council.

The Council having disagreed to an amendment made by the House to the 4th section of bill No. 48, Council file, entitled, 'An act to establish the boundaries of the counties of Clayton, Fayette, &c.'

Mr. Swan made a motion that the House insist upon their said amendment; which motion was agreed to.

Messrs. Bailey, Coop, and Blair were, on motion, appointed a committee of conference in relation to said bill.

The House also insisted upon their amendments to the 4th section of bill No. 59, Council file.

On motion of Mr. Summers, the House disagreed to the amend-

ments made by the Council to bill No. 74, An act to provide for the organization of the county of Clinton, and to locate the seat of justice thereof.

Mr. Nowlin, from the committee on expenditures, reported bill No. 159, An act to provide for the compensation of Printers to the Legislative Assembly, and for other purposes, which was read a first time.

The rules of the House were then suspended in reference to said bill and the same read a second time, considered in committee of the whole, Mr. Patterson in the chair, reported the bill without amendment; the report was concurred in, and the bill

On motion of Mr. Binkson, laid on the table.

The amendments made by the Council to bill No. 87, An act concerning the repeal of statutes, were read and concurred in.

On motion of Mr. Swan,

Bill No. 159, was taken from the table and ordered to be engrossed.

Mr. Nowlin offered the following:

Resolved, That the Secretary of the Territory be instructed to pay James Clarke & Co. eighteen hundred and one dollars and seventy-five cents for printing for the House of Representatives, during the present session. Which was adopted.

Mr. Beeler offered the following:

Resolved, That the Secretary of the Territory of Iowa be and he is hereby authorized to pay to the Trustees of the Methodist Episcopal Church, the sum of twelve hundred dollars, the amount due for the rent of said church, for the session of the Legislative Assembly for the year 1838-'9. Which was adopted.

Mr. Taylor offered the following:

Resolved, That the Hon. Wm. B. Conway, Secretary and Fiscal Agent of this Territory, is entitled to the thanks of this House for his efficient and untiring exertions in procuring money to pay the expenses of this Legislative Assembly.

Which was unanimously adopted.

On motion of Mr. Nowlin,

Resolved, That James G. Edwards be allowed the sum of eight hundred and seventy-seven dollars and seventy-eight cents, for printing bills, memorials &c. for the House of Representatives.

Mr. Swan offered the following:

Resolved, That the Rev. A. M. Scott be invited, by a committee to be appointed by the chair, to address the Throne of Grace by solemn prayer.

Which was adopted, and Messrs. Hall and Swan appointed said committee.

The Speaker's chair having been vacated, Mr. Scott was thereupon conducted to it, and in a fervent and appropriate manner addressed the Throne of Grace.

The Speaker resumed his seat, and then

On motion of Mr. Nowlin,

The House adjourned to 8 o'clock, A. M. to-morrow morning.

Friday, January 25. 1839.

On motion of Mr. Hall,

Resolved, That the Council be invited to meet forthwith in the Hall of the House of Representatives for the purpose of going into an election, by joint ballot, for commissioners to superintend the erection of a penitentiary at Fort Madison, in Lee county.

On motion of Mr. Hall,

Resolved, That the several officers who have been in attendance on the House of Representatives during its present session, are entitled to the thanks of this House for the prompt and energetic manner in which they have discharged their several duties.

On motion of Mr. Nowlin,

Resolved, That William H. Turner, be allowed the sum of sixty five dollars for services as enrolling clerk of this House.

Mr. Nowlin, from the committee on enrolments, reported as correctly engrossed, a bill providing for the compensation of printers to the Legislative Assembly and for other purposes.

Said bill was read a third time, passed, title agreed to, and

Ordered to be sent to the Council for concurrence.

On motion of Mr. Cox,

Resolved, That Messrs. Inghram and Temple be requested to forward to the President of the United States the joint memorial to the President of the United States, to remove Governor Lucas from the office of Governor of this Territory.

Mr. Grimes, from the committee on the Judiciary, to which had been referred sundry bills, reported the same back to the House, and reported further that the committee deemed it inexpedient to act upon said bills.

On motion of Mr. Nowlin,

Resolved, That W. P. Cowperthwait, Thornton Bayless, James G. Edwards, William B. Hendershott, and R. D. Barton, be each allowed the sum of ten dollars for services as enrolling clerks.

On motion of Mr. Nowlin,

Resolved, That John S. Dunlap be allowed the sum of five dollars for services as enrolling clerk of this House.

On motion of Mr. Grimes,

Resolved, That Charles Weston be allowed the sum of five dollars as engrossing clerk, and that the Secretary be instructed to pay the same upon a presentation of a certificate from the Speaker and chief clerk.

The honorable members of the Council having appeared,

On motion of Mr. Grimes,

The Assembly proceeded to an election for Commissioner.

Mr. Taylor nominated John Claypole.

Mr. Grimes " John S. David.

Mr. Swazey " H. King.

Mr. Swan " J. M. Harrison.

Mr. Summers " S. R. Murray.

Messrs. Hempstead and Bailey were appointed tellers.

Members having deposited their ballots, and the same being counted, it appeared that John S. David had received thirteen, John Claypole seven, H. King four, S. R. Murray two, J. M. Harrison two, and Mr. Lee one vote. No election.

On motion of Mr. Cox,

The Assembly proceeded to a second ballot, the names of three commissioners, to be voted for, being written on each ballot.

Mr. Whittlesey nominated John Foy.

Mr. Patterson " Henry Eno.

Mr. Swan " J. M. Harrison.

Mr. Summers " S. R. Murray.

Mr. Inghram " John S. David.

Mr. Swazey " H. King.

Mr. Taylor " John Claypole.

Votes being counted it appeared that Jesse M. Harrison had received seventeen votes, John S. David nineteen, John Claypole fourteen, Samuel R. Murray six, Henry Eno six, and H. King eight votes, and John Foy four votes.

Sixteen votes being necessary to a choice, Jesse M. Harrison and John S. David were declared to be duly elected.

On motion, the Assembly proceeded to ballot for the third commissioner.

Mr. Taylor nominated John Claypole.

Mr. Roberts " John Foy.

Mr. Swazey " H. King.

Ballots being counted, it appeared that John Claypole had received sixteen votes, John Foy three, H. King seven, Henry Eno one, and S. R. Murray one.

John Claypole was declared to be duly elected the remaining commissioner to superintend the erection of the Penitentiary of this Territory, at Fort Madison, in Lee county.

The members of the Council then withdrew.

Mr. Swan, from the committee on enrolments, reported as correctly enrolled,

An act to incorporate the town of Davenport.

An act for the limitation of actions &c.

An act to repeal an act of the Wisconsin legislature concerning the half breed lands.

An act concerning reference to arbitrators, &c.

An act to authorize Aaron White to keep a ferry across the Mississippi river.

An act establishing certain territorial roads.

An act relative to wills and testaments.

An act providing for and regulating general elections in this Territory.

Said acts were signed by the Speaker, and the clerk directed to present them for the signature of the President of the Council.

Mr. Price, from the committee on enrolments, reported the following entitled acts to have been this day presented to the Governor for his approval, to wit:

An act regulating the issuing of writs of ne exeat and injunction.

An act relative to limited partnerships.

An act to authorize the Governor to call a special session of the Legislative Assembly.

An act regulating mills and millers, and for other purposes.

An act to provide for the erection of a penitentiary and establishing and regulating prison discipline for the same

The Secretary of the Council being introduced, informed the House that the Council had passed a joint resolution authorizing the Secretary of the Territory to pay the trustees of the Methodist Episcopal Church in Burlington, twelve hundred dollars for the rent of said church.

The House concurred in the resolution, and then,

On motion, adjourned to 2 o'clock, P. M.

2 O'CLOCK, P. M.

Mr. Swan, from the committee on enrolments, reported as correctly enrolled, a memorial of the Legislative Assembly praying for the removal of the present Governor of the Territory of Iowa.

Said memorial was signed by the Speaker, and ordered to be presented for the signature of the President of the Council.

On motion of Mr. Beeler,

Resolved, That the Council be informed that the House of Representatives are now ready to adjourn *sine die*.

There being no further business before the House, Mr. Bailey made a motion that the House adjourn *sine die*, and before the same was put, the Speaker addressed the House as follows:

GENTLEMEN:—Notwithstanding the resolution which passed this House on yesterday, in its character so complimentary to myself, yet I may be chargeable with asking an unnecessary extension of your indulgence by presuming to lengthen, for a single moment, the time which you have so anxiously looked for—the time which will place you again in the circle of your neighbors, companions and friends, and more particularly to the bosom of your families, and to that repose from the constant care, excitement and vigilance, which are the sleepless monitors of the faithful public servant—a repose which the accumulated labors and responsibilities of the session that is now coming to a close, renders peculiarly desirable. Nevertheless, you will allow me the indulgence of a few moments, while in justice to my own feelings, and a sense of deep and lasting obligation to you, I tender to one and all my fullest gratitude and warmest thanks, for the prompt and efficient manner you have come to my relief and assistance in my feeble and inexperienced efforts to preside over your deliberations, with that promptness of decision, dignity of deportment, and a just and liberal exercise of the powers growing out of the station to which you have called me, seemed to demand. That I have erred, and frequently erred, is undeniable; and that such a result was anticipated by you as well as myself, is equally undeniable; but if my errors have been attributed by any one with whom I have had the honor to be associated, to

any other cause than an error of the head, I hope that he will, in justice to me, before we separate, attach to it his unqualified veto.

We have had before us, gentlemen, a task alike herculean in magnitude and in responsibility; and that excitement and feeling should have occasionally been kindled up among us, is but the evidence of patriotic devotion and a just conception of accountability to our constituents; and I trust that when we separate to return to our several homes, that no one will leave behind him aught set down in malice, but nobly forgive and forget our wrongs, and be ready at all times and under all circumstances to extend the hand of fellowship to his co-laborer in the great work from which we are now about retiring—a work no less in importance than laying the foundation and establishing in part a system of civil jurisprudence, that is to be the rule of action for an intelligent, liberal, and free people; and I fear not the reception which the result of our labors may meet with among the people of Iowa. I, for one, have no compunctions of conscience, no regrets, other than to regret the existence of an influence which has sought to sow the seeds of party and personal discord amongst us, to paralyze our energies, and to breath blight and ruin upon our labors; but thank God, there has been enough of manly independence and firmness among us, to pursue our onward course, influenced by no narrow, contracted, or servile views of policy, disdaining all motive, save the interest of the people and the good of our adopted country, we have looked neither to the right nor to the left, but have steadily kept the organic law in our eye as our flag staff, and the people's will as the port to which we run.

Gentlemen, you will bear with you the best wishes and most grateful feelings of one you have honored—one who sincerely desires that you may meet with that cordial reception at the hands of your constituents, which you are so justly entitled to—one who in whatever clime his lot may be cast, or whatever condition in life stern fortune may assign to him, will look back to the scenes in which we have been associated with none other than feelings of pride and exultation, save to regret the necessity of uttering the word farewell.

The House then adjourned *sine die*.

APPENDIX.

[DOCUMENT—No. 1.]

*Rules for the Government of the House of Representatives of the Territory of Iowa.**Regulations for the daily transaction of Business.*

After the the journal is read, and the House is open for business, the following order will govern:

- 1st. Petitions or Memorials to be offered.
- 2d. Resolutions.
- 3d. Reports of Committees.
- 4th. Bills, Messages, and communications on the Speaker's table.
- 5th. Bills and resolutions ready for a second reading.
- 6th. Bills on the passage.
- 7th. Reports in the possession of the House, which offer grounds for a bill are to be taken up that the bill may be ordered in.
- 8th. Bills or other matters before the House, and unfinished the preceding day.
- 9th. These matters being despatched, for expediting business, the general file of bills and other papers are then taken up, agreeably to their first introduction to the House.

STANDING RULES.

I. The House of Representatives shall choose by ballot one of their own number to occupy the Chair. He shall be styled Speaker of the House of Representatives. He shall take the chair at the hour to which the House is adjourned, and call the members to order; and, if a quorum be present, he shall direct the minutes of the preceding day to be read, and mistakes corrected. He shall preserve order and decorum, and shall decide questions of order subject to an appeal to the House. In committee of the whole he shall call some member to the chair, and may debate any question before the committee; but such substitution shall not extend beyond the adjournment. He shall, unless otherwise directed by the House, appoint all committees. He shall vote on a call of the yeas and nays. In the absence of the Speaker, the House shall appoint a Speaker, pro tem.

II. Any member may have a call of the House, and have absent members sent for.

III. All questions shall be put in this form: "You who are of the opinion (as the case may be) say, Aye." "Those of the contrary opinion say No;" and in doubtful cases any member may call for a division.

IV. When a motion is made and seconded it shall be stated by the member making the same, or read by the Chief Clerk previous to debate. If any member require it, all motions (except to adjourn, or postpone, or commit,) shall be reduced to writing. Any motion may be withdrawn by consent of the House, before decision or amendment.

V. Every member present, when a question is put, shall vote, unless the House shall, for special cause excuse him.

VI. A motion to adjourn shall always be in order, and be decided without debate.

VII. When a member is about to speak in debate, or deliver any matter to the House, he shall rise from his seat and respectfully address himself to "Mr. Speaker," and shall confine himself to the question under debate, and avoid personality.

VIII. When two or more members happen to rise at once, the Speaker shall name the member who is first to speak.

IX. Whilst the Speaker is putting any question, or addressing the House, none shall walk out of or across the House; nor in such case, or when a member is speaking, shall entertain private discourse; nor, while a member is speaking, shall pass between him and the Chair.

X. No member shall speak more than twice on any question, without leave of the House.

XI. When a question is under debate, no motion shall be received, unless to postpone, to amend, to take the previous question, to commit or to adjourn.

XII. The previous question shall be put in these words: "Shall the main question be now put?" and it shall be admitted on the demand of any member, and until decided shall preclude all amendments under debate of the main question.

XIII. Any member may call for a division of the question, when the same will admit thereof.

XIV. No committee shall absent themselves, by reason of their appointment, during the sitting of the House, without special leave.

XV. Every bill shall be introduced by motion, leave, or by order of the House on the report of a committee; and in either case a committee to prepare the same shall be appointed. In cases of a general nature, one day's notice at least shall be given, of the motion to bring in a bill.

XVI. Every bill shall receive three several readings previous to its passage; but no bill shall have its second and third readings on the same day, without special order of the House.

XVII. The first reading of a bill shall be for information, and if objections be made to it, the question shall be, "shall the bill be rejected?" If no objections be made, or the question to reject be lost, the bill shall go to its second reading without further question.

XVIII. All bills on a second reading shall be considered by the House in committee of the whole, before it shall be taken up and considered by the House. The final question upon every bill or resolution that requires three readings previous to being passed, shall be, "Shall the bill be engrossed and read a third time?" No

bill or resolution, that requires three readings shall be committed or amended, until it shall have been twice read.

XIX. When a question is lost on engrossing a bill for a third reading on a particular day, it shall not preclude a question to engross it for a third reading on a different day; nor shall any subject be a second time reconsidered, without the consent of the House. On the third reading of a bill or a resolution, no amendment (except to fill blanks) shall be received, except by unanimous consent of the members present.

XX. When a bill is engrossed, the Speaker shall, at the time previously appointed by the House, announce it as ready for a third reading, without a question.

XXI. A bill or resolution may be committed at any time, previous to its passage; if any amendment be required upon such commitment, by any other than a committee of the whole, the bill shall again be read a second time and considered as in committee of the whole, and the question for its engrossment and third reading again put.

XXII. In filling blanks the largest sum and longest time shall be first put.

XXIII. When the House is equally divided, in such case the question shall be lost.

XXIV. When a motion or question has been once made and carried in the affirmative or negative, it shall be in order for any member of the majority to move for the reconsideration thereof, on the same or succeeding day.

XXV. All acts, addresses and resolutions, shall be signed by the Speaker, and all writs, warrants and subpoenas, issued by order of the House, shall be under his hand and seal, attested by the Chief Clerk.

XXVI. Petitions, memorials, and other papers, addressed to the House, shall be presented by any member in his place; a brief statement of the contents thereof shall be made verbally by the member introducing the same, and shall not be debated or decided on the day of their being first read, unless where the House shall direct otherwise; but shall lie on the table (to be taken up in the order in which they were read,) or be referred, on motion to a committee.

XXVII. After a bill shall have passed the House, and before it shall be sent to the Council, it shall be duly enrolled; after which it shall be examined by a standing committee for that purpose, who shall carefully compare the enrolment with the engrossed bill, and correcting any errors that may be discovered in the enrolled bill, shall make their report forthwith to the House.

XXVIII. After examination and report, each bill shall be signed by the Chief Clerk, and by him transmitted to the Council; the day of transmission shall be entered on the journal.

XXIX. A Chief Clerk, a Recording, an Enrolling and an Engrossing clerk, shall be appointed by ballot to hold their places during the pleasure of the House. They shall take an oath for the true and faithful discharge of their respective duties in office. The Chief Clerk shall keep a correct journal of the daily proceedings, and perform such other duties as shall appertain to him as such.

He shall let no journal, records, accounts or papers, be taken from the table or out of his custody, other than by the regular mode of business of the House; and if any papers in his charge shall be missing, he shall make report to the Speaker, that it may be inquired into. It shall be the duty of the Recording clerk, to record the journal of proceedings agreeably to the original furnished him by the Chief Clerk. It shall be the duty of the Enrolling clerk, to transcribe, copy and enrol bills. It shall be the duty of the Engrossing clerk to write out in fair round hand, all bills and resolutions ordered to be engrossed. The several clerks in the discharge of their duties, shall be subject to the direction of the Speaker of the House.

XXX. A Sergeant at Arms, doorkeeper, messenger, and assistant messenger, shall be appointed by ballot to hold their offices during the pleasure of the House, whose duty it shall be to attend the House during its sitting, and to execute the commands of the Speaker and the House. They shall take an oath truly and faithfully to discharge their respective duties in office.

XXXI. When a message shall be sent from the Governor to the House it shall be announced by the doorkeeper, and communicated to the chair by the person by whom it may have been sent.

XXXII. No person shall be elected to any office created by these rules unless he shall receive a majority of the whole number of votes given by the members present.

XXXIII. No member or officer of the House shall be permitted to read the newspapers within the bar of the House, while the House is in session.

XXXIV. The Speaker of the House is authorized and required to administer all oaths prescribed by these rules.

XXXV. Every resolution read by the Chief Clerk, by direction of a member, shall be considered to be before the House. And the question to adopt or reject, may be immediately put on such resolutions, unless upon motion of a member, the same be laid on the table.

XXXVI. It shall be competent for any member, when a question is taken to call for the ayes and noes, which shall be recorded by the Chief Clerk if required.

XXXVII. No standing rule or order of the House shall be rescinded or changed without one day's notice being given of the motion therefor; nor shall any rule be suspended, except by a vote of at least two thirds of the members present; nor shall the order of business as established by the rules of the House, be postponed or changed, except by a vote of at least two thirds of the members present.

XXXVIII. All bills brought into the House by any member or committee, shall be endorsed with the name of the member or committee bringing in the same.

XXXIX. When a member shall be called to order, he shall sit down until the Speaker shall have determined whether he is in order or not; and every question of order shall be decided by the Speaker, subject to an appeal to the House by any two members; and if a member be called to order for words spoken, the exception-

able words shall be immediately taken down in writing, that the Speaker and House may be better enabled to judge the matter.

XL. The stated time of meeting, for the transaction of business, shall be 10 o'clock, A. M.

[DOCUMENT—No. 2.]

JOINT RULES OF BOTH HOUSES.

I. In every case of an amendment of a bill agreed to in one House, and dissented to in the other, if either House shall request a conference, and appoint a committee for that purpose, and the other House shall also appoint a committee to confer, such committee shall, at convenient hours, to be agreed on by their chairman, meet and state to each other, verbally, or in writing, as either shall choose, the reasons of their respective Houses, for and against the amendment, and confer freely thereon.

II. When a message shall be sent from the Council to the House of Representatives, it shall be announced at the door of the House by the door-keeper, and shall be respectfully communicated to the Chair, by the person with whom it may be sent.

III. The same ceremony shall be observed when a message shall be sent from the House of Representative to the Council.

IV. Messages shall be sent by such persons as a sense of propriety in each House may determine to be proper.

V. After a bill shall have passed both Houses, it shall be duly enrolled by the clerk of the House, or of the Council, as the bill may have originated in the one or the other House, before it shall be presented to the Governor.

VI. When bills are enrolled, they shall be examined by a joint committee of two from the Council, and two from the House of Representatives, appointed as a standing committee for that purpose, who shall carefully compare the enrollment, with the enrossed bills, as passed in the two Houses, and correcting any errors that may be discovered in the enrolled bills, make their report forthwith to the respective Houses.

VII. After examination and report, each bill shall be signed in the respective Houses; first by the Speaker of the House of Representatives, then by the President of the Council.

VIII. After a bill shall have been thus signed in each House, it shall be presented by the said committee to the Governor for his approbation, it being first endorsed on the back of the roll, certifying in which House the same originated, which endorsement shall be signed by the Secretary of the House, which the same did originate, and shall be entered on the Journal of each House; the said committee shall report the day of presentation to the Governor, which shall also be entered on the journal of each House.

IX. All orders, resolutions, and votes, which are to be presented to the Governor for his approbation, shall also, in the same manner,

be previously enrolled, examined, and signed; and shall be presented in the same manner, and by the same committee, as provided in cases of bills.

X. When a bill or resolution, which shall have been passed in one House is rejected in the other, notice thereof is to be given to the House, in which the same may have passed.

XI. When a bill or resolution, which has been passed in one House, is rejected in the other, it is not to be brought in during the same session, without a notice of five days, and leave of two thirds of that House in which it shall be renewed.

XII. Each House transmits to the other, all papers on which any bills or resolution shall be founded.

XIII. After each House shall have adhered to their disagreements, a bill, or resolution is lost.

XIV. No bill that shall have passed one House, shall be sent for concurrence to the other, on either of the last three days of the session.

XV. No bill or resolution that shall have passed the House of Representatives, and the Council, shall be presented to the Governor for his approbation, on the last day of the session.

XVI. When bills which may have passed one House are ordered to be printed in the other, a greater number of copies shall not be printed, than may be necessary for the use of the House making the order.

[DOCUMENT—No. 3.]

The select committee to whom was referred the memorial of Jabez A. Burchard jr., of the election district composed of the counties of Scott and Clinton, praying that the seat in this House now occupied by Samuel R. Murray, be vacated and that he be permitted to take the same, have had the matter under consideration, and now beg leave to report.

Your committee were aware of the responsibility resting upon them, in determining a precedent for contested elections in the Territory of Iowa. They conceived it a matter in which the people were immediately interested, and one in which their wishes should be regarded. Your committee are well aware, that by a partial or erroneous decision upon these matters, the elective franchise may be greatly impaired, if not totally destroyed, and their main object has been to ascertain if possible, the wishes and intentions of the people of Scott and Clinton counties, in voting for legislative officers on the tenth of September last. Mr. Burchard jr., has introduced testimony before your committee, to show conclusively, in our opinion that he was the man voted for, at that election, and that he received the highest number of votes polled, for any one individual. By the certified transcript of the election returns, furnished by the county commissioners' clerk, it appears that Jabez A. Burchard

jr. was not voted for at the Davenport precinct, nor at the precincts at Pleasant Valley and Parkhurst, whereas by the affidavits of Richard Pearce, Wm. B. Watts and John Forrest Esqr., it appears that at Davenport, he actually received one hundred and three votes. The two first named gentlemen were clerks, and the last named, one of the judges of the election, at that precinct. One of the clerks, Pearce, swears that the tickets cast for Burchard were printed, that jr. was on them, and that in making out the returns, he omitted to add jr. to the name of Burchard.

It appears equally clear to this committee that Jabez A. Burchard jr. received thirty-four votes at Pleasant Valley. Stephen Henry swears he has the tickets cast, now in his possession, that jr. is added to Burchard's name on thirty-four tickets, and one reads Jabez A. Burchard. A. J. Hyde confirms the testimony of Mr. Henry and swears that he omitted to add jr. in making out the returns to the county commissioners clerk.

Eleazer Parkhurst and Thomas C. Edes, swear that they were judges of the election at the precinct at Parkhurst, held on the 10th September last, and they now have the duplicate poll book and tickets, and that upon examination they find Jabez A. Burchard jr. received twenty-four votes, Jabez A. Burchard received eight and J. A. Burchard three votes.

Some twenty citizens of Scott county swear they are well acquainted with the people of Scott and Clinton counties, and that there is no man by the name of Burchard residing in either county, except Jabez A. Burchard jr. That he was the only candidate by that name, &c.

Mr. Murray in bar to the pretensions of Mr. Burchard, assumes the ground that 1st, due notice was not served on him by Burchard, of his intention to contest his seat.

Your committee have maturely examined the law regulating general elections in this Territory, and are of the opinion that it is not applicable to this case. By that law the clerk of the county commissioners court issues the certificate of election, and that certificate of election is issued in ten days from the day of election. The organic law, in the opinion of this committee, contravenes many of the provisions of this law. The election returns were, by the Governor's Proclamation, under the organic law, made to the Executive Department, and the person contesting could not know whose seat to contest, until the second Proclamation was received.

Your committee believe the law will not direct or imply an impossibility, and that Mr. Burchard took all the steps necessary to contest the seat of Mr. Murray.

Holding this view of the case, we are of the opinion that Jabez A. Burchard jr. is justly entitled to the seat now occupied by Samuel R. Murray, and in accordance with this view, we offer the following resolution for adoption.

Resolved, That the seat now occupied by Samuel R. Murray, be and the same is hereby vacated, and that Jabez A. Burchard jr.

be admitted to take the same as a member of this House, from Scott and Clinton counties.

All of which is respectfully submitted.

JAMES W. GRIMES, Ch'n.

JAMES HALL,

HARDIN NOWLIN,

A. BANKSON.

[DOCUMENT—No. 4.]

Mr. Summers, from the committee to whom was referred the petition of Jabez A. Burchard, jr. of Scott county, claiming a seat on this floor, has had the same under consideration, and now asks leave to present the following as the report of the minority:

That in the 20th section of the general election law of Wisconsin it is provided that "if any candidate of the proper county or district shall desire to contest the validity of any election or the right of any person declared to be duly elected to hold his seat in the Council or House of Representatives of the Legislative Assembly, such candidate shall give notice of his intention in writing, to the person whose election he intends to contest, or leave a notice thereof at his usual place of residence, within twenty days after the election, expressing the points on which it will be contested."

The minority find that this notice, as prescribed by law, has not been given by the individual claiming his seat in this case, and the minority of your committee is not aware of the existence of any law under which he can possibly claim the seat after omitting so vital a particular; and was there no other difficulty in the way to prevent the removal of the sitting member, the minority believes he could not be removed without a palpable violation of the law from which we have just quoted, which is now in full force and virtue in Iowa.

But there are still other reasons in favor of the sitting member, which the minority believe should be duly weighed before the right of the individual claiming his seat, is admitted.

1st. It does not appear by returns filed in the office of the Clerk of the board of commissioners, that the judges of election at the Davenport precinct were sworn, as the law requires to make them legal. In the opinion of the minority, if the election at Davenport was not legally conducted (and that it was not, the sitting member is prepared to prove,) it should be discarded, and if it is discarded the sitting member from Scott and Clinton had a plurality of votes over the individual claiming his seat.

2d. The judges of election received votes of persons who stated publicly before the board that they were not residents of the Territory of Iowa on the fourth day of July 1838.

3d. A majority of the judges decided that the Territory was organized on the 15th of August, and that all persons were entitled to vote who were residents on that day.

4th. The polls of election were kept open for more than an hour after six o'clock, P. M. and votes were received after that time, although one of the judges protested against it:—and although the three judges appointed by the Commissioners, were present at nine o'clock, P. M. the polls were moved after six o'clock into the bar room, and votes were received there. The votes were not canvassed on the day of election, but were left, together with the poll books, with one of the judges in an open box, without any seal being placed on the box.

All which illegalities in the persons conducting the election at the Davenport precinct, where the individual claiming his seat obtained the most of his votes, in the opinion of the minority, should go to set aside the vote of that precinct.

In viewing the whole subject, the minority are of opinion that the petition of the individual claiming his seat should be denied by this House, or that the sitting member should be allowed a reasonable time to collect further testimony, which he can procure, and which in the opinion of the minority, would incontestibly establish the right of the sitting member to the seat which he now holds.

LAUREL SUMMERS.

[DOCUMENT—No. 5.]

MINERS' BANK OF DU BUQUE.

The committee appointed to investigate the affairs and condition of the Miners' Bank of Du Buque, under a joint resolution of both Houses of the 29th of November, 1838, beg leave to report:

That in discharge of their duties, they repaired to Du Buque, and on communicating with the cashier of that institution, on the 6th of December, propounded to him the following interrogatories:

- 1st. What is the amount of deposits on hand?
- 2d. What is the amount of profits on hand?
- 3d. What is the amount of bills in circulation?
- 4th. What is the amount of debt due from the directors and stockholders?
- 5th. What is the amount due from other persons or corporations?
- 6th. What is the amount of specie in bank and actually belonging to the bank?
- 7th. What amount of bills of other banks have you on hand, actually belonging to the bank?
- 8th. What is the amount of your deposits in other banks; if any, what banks are they?
- 9th. What amount of real estate is owned by the bank?
- 10th. What is the amount of other property?
- 11th. What is the amount of capital stock actually paid in?
- 12th. What is the character of the issues of the bank, are they post notes, or payable on demand, and what is the amount of each?
- 13th. Are any other banks or corporations indebted to the Miners' Bank? if any, what, and what amount?

14th. What is the amount of debts that the Miners' Bank owes at this time, whether by bond, bill, note, post note, or other contract?

15th. Has the Miners' Bank ever taken more than seven per cent upon its loans?

16th. What amount of capital stock was paid in, before the bank commenced its operations?

17th. What is the character of your deposits, are they general or special.

In answer to said interrogatories, the cashier of said bank made the following statement.

State of the funds of the Miners' Bank of Du Buque, Dec. 7, 1838.

Real estate,	4,206 11
Stock,	1,000
Bills discounted,	71,597 72
Contingent expenses,	6,244 13
Profit and loss,	4,363 98
F. & M. bank of Michigan,	762 19
Exchange acct.,	6,344
Territory of Wisconsin,	5,050
St. Louis funds,	1,678
Notes of other banks,	18,874
Cash items,	493 87
Gold and silver,	3,033
	<hr/>
	\$123,647 00

Capital stock,	100,000
Profits on hand,	3,935 61
Circulation,	10,990
Post notes,	5,035
Individual deposits,	3,686 39
	<hr/>
	\$123,647 00

MINERS' BANK OF DU BUQUE, }
December 7, 1838.

GENTLEMEN:—I hand you above, a statement of the affairs of this bank, as requested by you in person yesterday. I also annex answers to such of your questions, as are not replied to by the statement itself.

I am very respectfully,

Your obedient servant,

T. O. MARTIN, Cashier.

Warner Lewis and others, committee of investigation.

For answers to questions No. 1, 2 and 3, see statement. To No. 4, I answer fourteen thousand four hundred and fifty-two dollars, seventy six cents. From No. 5, to 14 inclusive, see statement.

To No. 15, I answer, the Miners' Bank has never knowingly taken more than seven per cent. disct. on loans.

To No. 16, fifty per cent upon the capital stock, was required to be paid in before the bank could legally commence operations.

To No. 17, our deposits are generally of a special character, and made to apply on notes not yet due.

T. O. Martin Esq. Cashier of the Miners' Bank of Du Buque, being duly sworn by the chairman of the committee of investigation, says: that the foregoing answers to the interrogatories propounded, and the expose of the condition of the bank, is true and correct, according to the best of his knowledge and belief.

T. O. MARTIN, Cashier.

Subscribed and sworn to before me,

WARNER LEWIS, Chairman of Committee.

Which statement your committee carefully examined and compared with the books and vaults of the institution, and is in their opinion a true exposition of the condition of the bank, from which it appeared that the amount of cash on hand, nearly doubled the amount of the liabilities of the bank. Your committee would further state that every facility was afforded them for making the investigation, through the politeness of T. O. Martin Esq. Cashier,—and upon a full and fair investigation of its liabilities and resources, your committee are constrained to believe that the Miners' Bank of Du Buque, is in a safe and solvent condition.

WARNER LEWIS,
HARDIN NOWLIN,
JAMES HALL.

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