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Pennsylvania Legislature

HOUSE OF REPRESENTATIVES.

Wednesday Feb. 16.

Mr. RANDALL made the following report:

The committee of the house of representatives to whom on the 8th day of December 1819, was referred the petition from sundry citizens of this commonwealth, praying for an inquiry into the conduct of the governor, MAKE REPORT:—

(Concluded from our last.)

8th CHARGE.

"That the governor corruptly issued a commission, on the express condition that the person therein named should, from time to time, pay over a certain portion of the fees to another person, to whom the governor was under pecuniary obligations."

Upon the examination of this charge, three inquiries arise: 1st. Who is the individual to whom it is alleged the governor was under "pecuniary obligations?"

2d. Did these "pecuniary obligations" in reality exist?

And 3d. Was there a corrupt condition, either express or implied, upon which a commission issued.

Judging from what passed in the presence of the committee and from the avowels and explanations given by the counsel of the petitioners, the late Alexander Wilson is here meant as the person to whom the governor was under these alleged "pecuniary obligations;" such obligations as would induce a governor of this commonwealth to lose sight of his oath of office; to abandon all claims to moral and political integrity, and to become the corrupt perpetrator of a high crime and misdemeanor in office!

A detail of the acquaintance and connection if it can be so called, which existed between the governor and Alexander Wilson, will throw much light upon the second branch of the inquiry and enable the house of representatives to judge of the existence of these "pecuniary obligations."

Their acquaintance was formed and their friendship matured, by the occupation of Alexander Wilson as chief clerk in the treasury of this state, whilst the governor was at the head of that department. In the hope of obtaining from the skill of an eminent physician of Philadelphia, a restoration to health, Mr. Wilson returned to that city in October, 1817. Upon parting with an old acquaintance, and one certainly not in affluence, and of very reduced health, William Findlay, probably then the governor's elect, gave him a common letter of introduction to Mr. John Humes of that city, the only letter of the kind, as far as appears from the testimony, that he carried with him. Mr. Humes testified that this letter contained merely a request, that he would endeavor to get Mr. Wilson a situation as a clerk, and nothing more than the customary language upon making a request of the kind.

James Graham, who became the agent of the widow of Alexander Wilson and had thereby access to his papers, found amongst them letters with the signature of the governor subscribed, written before and subsequently, to his election. These letters contained expressions of friendship and a willingness to serve and to oblige him. Mr. Graham also saw notes and other papers bearing the name of William Findlay, which induced him to believe that the governor was indebted to the deceased. However upon further inquiry and examination, and a correspondence with the governor, connected with the declaration of the widow, that nothing was due to her husband, this impression of Mr. Graham seems to have been shaken; and no demand was ever made, nor any claim persisted in.

Mr. Redmond Conyngham, also, testifies to an examination of papers shewn to him by Alexander Wilson, but does not materially differ from Mr. Humes or Mr. Graham. The letters which he saw were written in friendly terms; expressed a desire to serve Mr. Wilson, to procure for him a situation in consequence of his disappointment in not getting into the Bank of the United States; and one of them contained an extract from the letter before spoken of to Mr. Humes. At the same time, and with these papers, were shewn his bank book, and notes drawn by Alexander Wilson, and indorsed by William Findlay. Mr. Wilson made no claim of any pecuniary demand, nor of any account against the governor; and during the conversation, mentioned that he had come to Philadelphia because of his ill health, and the promise of Mr. Findlay to endeavor to procure for him a situation in the bank of the United States; and if not there, with Mr. John Humes.

Mr. John Steel states, that about four months before the death of Alexander Wilson, in Philadelphia he indorsed a note at sixty days, at the request of, and drawn by, Alexander Wilson, for five hundred, or five hundred and ten dollars. When at maturity, and about to be renewed, Mr. Wilson told him there were some small monied transactions between himself and the governor, and that the proceeds of the note were for the use of the latter. At the same time Mr. Steel told him that it was no matter, that he would indorse for a much greater amount for either of them. The note was indorsed and renewed. When again at maturity, Mr. Steel being informed that no provision was made for the payment or renewal of the note, gave his check for the amount, and immediately sent to

Mr. Wilson, who was then in his last illness. The messenger returned with the money to Mr. Steel, and stated the declaration of Mr. Wilson that he had received it some time before to take up the note.

Here is a condensed view of the whole of the evidence adduced by the petitioners, to sustain their allegation of "pecuniary obligations" on the part of the governor, towards Alexander Wilson. What does it amount to? Your committee are at a loss to discover in it any thing more than those common features which distinguish occurrences of the kind between friends and acquaintances. Do the expressions of friendship amount to an acknowledgement of "pecuniary obligations?" Does not the avowal of generous feelings and a disposition to serve an old friend, sinking under an incurable malady, and going to a residence amongst strangers, evince any particular or "pecuniary obligation?"

But from these private and ordinary transactions draw for a moment the conclusion, that the alleged "pecuniary obligations" did exist: does it follow as a matter of course, that either a private offence or a public crime is there also to be found? Are not all men whether in public or private life, not merely liable, but entitled, to incur obligations of interest, affection or friendship? Is it not a personal right, as well as a common failing, of which official promotion alone cannot deprive the individual? If, indeed, official acts be solely influenced by the obligations thus incurred, then would there be ground of accusation and condemnation; but, in themselves they only indicate the exercise of privileges, which no laws founded upon a just attention to freedom, can ever destroy. These reflections lead your committee to "the third inquiry" arising under this charge, and into an examination of the facts connected with the appointment of captain Caleb Earl, as harbor-master of the city of Philadelphia; for it is pretended that the corrupt condition of paying over a portion of the fees to Alexander Wilson, was annexed to that appointment.

Shortly after the election of the governor, the removal of capt. Hawkes from the station of harbor-master of Philadelphia, was strongly urged upon him, and captain Caleb Earl, an aged gentleman of great worth, and in indigent circumstances, was recommended as the successor. Pending the application, and uncertain of its result, capt. Earl in April 1818, accepted the command of a vessel, and sailed upon a voyage to Liverpool. Within a day or two after his departure, his commission as harbor-master reached Philadelphia. In this situation of the affair, capt. Hawkes visited the governor at Harrisburg, informed him of the circumstances of captain Earl having sailed for Europe solicited the appointment and received it.

In September following captain Earl returned and, by the advice of his powerful friends, revived his application, and waited upon the governor in person at Harrisburg. In his conversation with him, the governor acknowledged that his recommendation was a very strong one, and that captain Hawkes was also highly recommended. In this interview, capt. Earl had but little conversation with the governor, and returned again to Philadelphia without any further assurance than that the governor would think of the affair.

About the middle of the same month, capt. Gustavus Conyngham, now deceased, and who was a man of high character, called upon capt. Earl, and wished him to take Alexander Wilson as a deputy, or as a clerk. Earl expressed his wish to oblige Mr. C. who had always been his steadfast friend, and was very instrumental in endeavoring to procure him the appointment, but made some objections to employing Wilson in either capacity. At the request of capt. C. the parties met at his house upon the same afternoon. The subject was resumed, Alexander Wilson stated he was in ill health, and merely wished employment until the spring; that he could keep a book of arrivals, and hoped to be strong enough to be able to go out and collect the fees. When he mentioned that he only wished to be employed until the spring, it struck capt. Earl as so trifling an engagement, that he turned round to capt. Conyngham and said that it was a matter of indifference; he would readily agree to the employment of Mr. Wilson until March, if it would be any satisfaction to him capt. Conyngham; that the time was so short, he considered it of no importance. At this interview there were no terms whatever mentioned. The conversation broke off, with the understanding that if captain Earl obtained the commission, he would give Mr. Wilson employment until March.

About the last of October, a second petition was forwarded to the governor, fortified by private letters and a certificate from the clerk of the district court of the United States, that capt. Hawkes held an appointment under the general government.

About the 7th of November, capt. Earl was appointed, and received his commission through the hands of the then recorder of the city of Philadelphia. He waited upon capt. Conyngham and Mr. Wilson, and told them that he was ready to fulfill his promise, and left it to them to fix the terms. Captain Conyngham said he supposed about one half the fees would be right in such a case. Wilson replied, that he did not wish the one half; he would be satisfied with six fourteenths of the fees. They had previously left it to captain Earl himself to make any offer he pleased. He declined, because he thought it a matter of no consequence. So trifling was the engagement, that he would have given the whole, if it had been asked. It could only continue for six or eight weeks, making allowance for the usual winter interruption of the navigation. In some seasons, it would only

have amounted to 14 or 15 dollars. After this engagement, Mr. Wilson rendered such services as his declining health would permit, and died about the 12th of February, 1819. Immediately after his death captain Earl paid to his widow sixty-two dollars; and here the matter ended.

In addition to this detail of facts, captain Earl whose inflexible integrity is admitted by all, emphatically declared: that the arrangement was made by him solely to oblige his valuable friend, Gustavus Conyngham, who happened, also, to be the friend of Mr. Wilson; that he was not induced to make it by the prospect of the commission, nor by any consideration for Alexander Wilson: that, at the time he did not view it as having any influence upon his appointment; that the governor, in his personal interview with him, never mentioned the name of Alexander Wilson, and had nothing to do with the arrangement, and that there were no pains taken to keep it a secret.

It is also worthy of remark, as negating the supposed influence of Alexander Wilson in the procurement of the commission, that his letter, written on the 12th or 14th of September, 1818, recommending captain Earl, must have lain upon the table of the governor without effect; for the commission did not issue until early in the month of November following, and not until after the second petition, accompanied by private letters and the certificate already mentioned, irresistibly called upon the executive to bestow the commission upon Captain Earl.

Here, then, is the whole transaction; a transaction unequivocally proved to have proceeded exclusively from the grateful feelings of captain Earl towards his friend and benefactor, Gustavus Conyngham. Your committee look in vain for the evidence of a corrupt interference on the part of the governor. Where is the slightest proof that the commission issued under any restriction unlawfully imposed by the governor, with a view to relieve himself from "pecuniary obligation?" Can it be possible that a chief magistrate of Pennsylvania would prostitute his office for the paltry purpose of securing a few dollars to an obscure and dying individual? Has that day arrived in Pennsylvania, when even the harbor-master at Philadelphia cannot receive his commission, without the fees of a single winter season becoming a temptation to public crime! how prone to distort facts and fancy the existence of public evil must that imagination be which could see in this transaction an honorable man like captain Conyngham, a soldier of the revolution, descending and becoming the tainted instrument of another, in negotiating "an express condition" for such a petty consideration!

With this unvarnished exposition of the affair of captain Earl and Alexander Wilson, what unprejudiced man will not unite in opinion with the committee, that it unfolds no manner of guilt or fault on the part of the governor?

Having thus disposed of all the express or written charges, adduced by the petitioners, your committee will proceed to investigate the remaining one, which was brought forward, without any previous notice, in the testimony of John Binns. It is as follows:

"That the governor of this commonwealth, during the Legislature of 1817-18, did interfere with the proceedings of a committee appointed to enquire into his official conduct, while Treasurer of the state."

In relation to this subject, let us inquire, 1st. Is the fact satisfactorily established by credible evidence? 2d. In what does the alleged interference with a legislative committee consist? And 3d. Was it an illegal interference, or such as can be denominated a high crime or misdemeanor in office?

Every witness should be free from the operations of favor, interest or prejudice. Upon this essentially depends his competency or credit. To trust to a naked, uncorroborated oath, taken by a man whose hostility is notorious and avowed, would tend to put the happiness, property and reputation of individuals, at the mercy of unprincipled enemies. Too much caution therefore, cannot be exercised, in believing him whom declared animosity urges forward, and whose statements are unconfirmed by others, or by circumstances.

It is well known to every member of the legislature—it is well known throughout the state and the union, that John Binns has for many months assailed, unceasingly, in the columns of a daily newspaper, the character and happiness of the chief magistrate: and it is also well known, that he has practised all the arts and powers of declamatory composition to raise the foundation of an impeachment, upon the very charges he now comes forward to substantiate. Such a witness cannot meet with the usual confidence. The human heart is conscious of its own frailty, and the human intellect is aware how certainly an habitual indulgence of passion will warp its judgments. Upon the present charge he stands alone, unaided by collateral events, and opposed by many probabilities. He speaks too in relation to casual and brief conversations with the governor and others, which

occurred two years ago, parts of which he only pretends to recollect, and about some of the features of which he was proved to be wrong. Your committee feel reluctant to press the point farther: to them the fundamental and essential fact, to which John Binns directed his testimony, remains without adequate and satisfactory proof.

But what was the fact? What was the alleged interference with a legislative committee?

It will be remembered, that during the session of 1817-18, a committee was appointed by the house of representatives to enquire into the official conduct of William Findlay, while he acted as treasurer of the commonwealth. Pending that investigation, and shortly before the testimony closed, John Binns, it is averred by himself, was requested by the governor to draft a report for that committee of inquiry, and was afforded an opportunity to inspect some books and papers for that purpose. He acceded to that request; he made examinations among the members of the committee; collected notes of testimony; and left the seat of government for Philadelphia, promising to transmit the result of his labours. Some time, however, previous to this, a suit had been instituted by Thomas Elder, esquire, against John Binns, for an alleged libel published in the Democratic Press, involving facts then investigating before the committee, and in relation to which it was an object of the latter's attention in Harrisburg, and of his anxious inquiries, to obtain important information necessary to his own defence.— Whether, as is stated on oath by Mr. Thomas Sergeant, he offered, without being solicited, to draft the report, in order to incorporate in it what might be material to his defence on the trial of the case of Elder against Binns, pushing himself forward for a selfish object, without the desire of the executive, your committee must leave to the determination of the house.

Clear it is that he afterwards sent to Mr. Sergeant but little more than a preamble for the report; and that portion, too, principally consisted of paragraphs which, according to his own declaration, he contemplated adducing as material evidence on the above mentioned trial. This preamble and these paragraphs undergoing amendments and alterations, were afterwards embodied in the report. It does not appear that the portion thus written by John Binns, nor indeed any portion of that report, was shewn by any person to the governor. Mr. Sergeant, indeed, in whose hands all the papers upon that subject were deposited by the chairman of that committee, who alleged himself too unwell and too much engaged on other business to devote his attention to the subject, most emphatically declares that he had no conversation or communication of any kind with the chief magistrate relative thereto, and that he never did shew him what had been written and forwarded by John Binns. It is not in proof that the governor ever conversed with, or in any manner influenced, a single member of the committee of inquiry. On the contrary, the surmise is directly repudiated by the evidence of general William Marks, and colonel Frederick Eichelberger, members of that committee; to the former of whom, owing to a long existing friendship and intimacy, the governor would, in all probability, have been most likely to address himself.

Thus it results that the alleged interference with the committee of inquiry into the conduct of the late state treasurer, giving, for a moment, full credit to the *perilous oath of John Binns*, consists in having barely wished an individual to draft a report, without directing the mode in which it was to be done, without speaking to, or in any manner influencing, a single member of the committee, and without, finally, being made acquainted with a single syllable of the matter which constituted the report.

But, arriving at the last point in which this subject is to be considered, by what extraordinary process of refined logic can it be argued, admitting the witness to have deposed the truth, that the simple expression of a wish from the governor, that a person wholly unconnected with the committee, should draft the report, amounts to an illegal interference with legislative duties, is corruption, and should be punished as a crime? Was it not natural, was it not laudable, that the chief magistrate should desire that the announcement of an innocence of which, it is presumed, he felt conscious,