

THE PATRIOT

Not for himself, but for his country.

WEDNESDAY, March 27.

Pennsylvania Legislature HOUSE OF REPRESENTATIVES.

Tuesday, March 19.—A message from the Governor, accompanied by the correspondence of the Secretary of the Commonwealth with the judges of the supreme court, &c. in relation to the holiday adjournment, was received and read, as follows:

To the House of Representatives of the Commonwealth of Pennsylvania.

GENTLEMEN—In compliance with the request expressed in your resolution of the 4th instant, I transmit you herewith a copy of a letter which the secretary of the commonwealth, by my direction, addressed to the judges of the supreme court, the judges of the district court of the city and county of Philadelphia, and the president judge of the district court for the city and county of Lancaster, with copies of their several answers relative to the proceedings which took place on a joint resolution of both branches of the legislature, during the Christmas holidays.

The resolution, containing a provision over which I had no constitutional control, I directed to be returned by the secretary of the commonwealth to the house of representatives, in which it originated, with my reasons for withholding my signature. Whatever doubts may be entertained by others on a question, whether the Executive, under existing circumstances, be bound by any obligation, official or personal, to disclose a correspondence like the present, which, if not confidential, may be considered rather of a private than an official character, yet it is my wish that the people should be acquainted with the whole official conduct of their servants, and that not only the Representatives of the people, but the people themselves (who are the common constituents of us all) shall have a full view of all the measures of government in which I have participated, and of every Executive proceeding from the time of my inauguration until the present day, I feel a pleasure in having an opportunity afforded in making this communication, nor do I feel any reluctance to comply with the resolution of the House in this case, altho' common report is assigned as the only ground on which it was passed.

During the whole course of my political life I have made it an invariable rule to procure the best information, which my opportunities enabled me to obtain, on every subject upon which my duty called me to act. In this case I was governed by the same principle, and I believe the present application is the first instance in which a chief Executive Magistrate has been called on by a legislative body to render an account, not of his official acts but of the names of the persons he may have advised with and the information he may have received to assist him in his deliberations on the propriety of acting or not acting on such cases as are brought before him.

In new cases, involving constitutional difficulties, and in which the annals of the legislature furnish no precedent as a guide (and the case which gave rise to this correspondence being in my opinion one of this description,) the course of conduct I pursued appeared to me peculiarly proper. The House of Representatives adjourned from the 22d of December 1821, until the 2d of January 1822, a period of ten days. The Senate adjourned on the same day, to meet on the 26th of December, a period of only three days, on which day they met and continued their session by adjournment from day to day. This appeared to me sufficient evidence that the Senate did not concur in the adjournment of the House of Representatives, and that therefore the adjournment of that House for ten days without the concurrence of the other was not only not warranted, but expressly prohibited by the 16th section of the first article of the constitution, which declares that neither House shall adjourn for more than three days without the consent of the other.

The difficulties presented to my view by this new state of things, gathered strength from the respect I have uniformly entertained for the opinions of the Senate, whose conduct on this occasion seemed so much at variance with that of the House. Anxious to avoid the confusion incident to a disagreement between the two Houses respecting an important constitutional principle, and facing the best interest of the Commonwealth, by bringing into doubt

the legitimacy of the laws themselves, I was induced to apply to those whose age, knowledge, habits and experience had peculiarly qualified them for giving information; and on making this application to the judges I found myself supported by many examples furnished by the records in the office of the Secretary of the Commonwealth. 'Tis true, that these records furnished no similar case exactly parallel, or exactly in point, because no similar case of adjournment had ever occurred, but they furnish evidence that the practice of the Governor, submitting to the judges questions involving constitutional principles or legal difficulties, has been co-existent with the government itself.

But were there no such precedents, I am not aware of any objection against the propriety of making an application of this kind, either on constitutional ground or that of expediency; and although it may be admitted that the judges are not bound to give any opinion on the questions submitted to them, yet I cannot perceive any good reason for their refusal, except in cases where their opinion might have the effect of prejudging a pending case, to the injury of either of the parties thereto.

What views the House of Representatives may entertain on this subject is not for me to anticipate, but I may be permitted to say, that thro' the whole of this business my conduct was governed by an anxious desire to preserve the constitution inviolate, and prevent that litigation among our fellow citizens, which inevitably would have ensued, had the laws been passed by an unauthorised Assembly.

I avail myself of this opportunity of repeating to the House the assurance of a singular disposition on my part, to cultivate (as far as it may be in my power) to do consistently with a constant regard to the constitution, the laws, and the public interest) an harmonious intercourse betwixt the different branches of the legislature and the executive, at all times desirable, but towards the close of a long session particularly necessary to the beneficial dispatch of the public business, and the faithful discharge of those duties for the performance of which we have been elected by the people.

With respect I have the honor to be gentlemen, your most obedient servant. JOSEPH HESTER.

March 19th 1822. Department of State Harrisburg, Jan. 3, 1822.

WILLIAM TILGHMAN, ESQ.

SIR—I am directed by the Governor to submit through you to the Judges of the Supreme Court, the following statement, with a request that he may be furnished as soon as they can by any means make it convenient, with their opinion on the various questions which appear to him as necessarily growing out of the proceedings of the Legislature in this particular instance. The novelty of the case, the interesting considerations which it involves and the importance of its receiving a correct decision, will he trusts, be admitted as a sufficient apology for his thus so earnestly pressing the subject on your attention, and soliciting your opinion within so limited a period. It will be a relief to the Governor if the constitutional difficulties which present themselves to his view, should appear to be not well founded, and that the proceedings of the legislature may not be considered subject to any legal constitutional objections. A similar application is made to the judges of the district courts in Philadelphia and Lancaster.

On the 19th day of December, 1821 the assembly passed a resolution in the following words, viz: "Resolved by the Senate and House of Representatives of the commonwealth of Pennsylvania in general assembly met, That the Legislature will adjourn on Saturday the 22d inst. and meet on Wednesday the 2d of January, at 10 o'clock in the morning in the State Capitol; and that the clerks of the respective houses, during the adjournment, be and they are hereby required to remove the books, maps, papers, &c. furnish the committee rooms, arrange the library, and perform such other duties as may be requisite to fit up the rooms in the State Capitol, intended for the reception of the Legislature, upon the day mentioned in the resolution."

On the evening of the same day, the resolution was presented to the Governor for his approbation and signature; and on the 21st he returned it to the house of representatives in which it originated, with his reasons for withholding his approbation. On motion the consideration of this resolution was postponed till the 2nd of January; and on the question on that motion being decided, the following resolution was passed, viz:

"Whereas by a resolution of both houses it was determined among other things to adjourn on Saturday the 22d instant to meet on Wednesday

the 2d of Jan. next, which resolution was presented to the Governor for his approbation. And whereas the Governor has returned the said resolution without his approbation, stating that by the Constitution he has no control over the adjournments of the Legislature. And whereas we firmly believe that it is not in the power, even of the Legislature to give any control over their adjournments either directly or indirectly to the Governor, except in cases of disagreement between the Houses,

Therefore, Resolved, That the adjournment agreed upon by the Senate and House of Representatives, which is to commence on this day and end on Wednesday the 2d day of January 1822, is a regular, valid adjournment and that when this house adjourns it will adjourn to meet on that day.

On motion the said resolution was read a second time, and on the question "Will the house agree to the same?" it was determined in the affirmative.

The resolution being thus passed, the house of representatives adjourned to meet on the 2d of January, a period of ten days, without the concurrence of the Senate. The Senate adjourned on the same day to meet on the fourth day thereafter, at which time they met and continued their session by adjournment from day to day, till the 2d of January, when the house of representatives re-assembled, and recommenced its legislative functions.

The following interesting inquiries appear naturally to arise out of these proceedings: What has been the effect of the adjournment of the house of representatives under the circumstances as stated? Is the assembly thereby constitutionally dissolved, how can it be reinstated? Can the two houses constitutionally re-assemble and re-organize their respective bodies for legislative purposes? Or does their constitutional resuscitation require the interference executive under his constitutional power of convening the Legislature on extraordinary occasions? Does not the constitution invest the governor with the power, in the present, or in any case, to inquire into the constitutional organization of the Assembly of either House? In case the two houses re-assemble and proceed to exercise their legislative functions (which is now the fact) would their acts be legal and binding, even if they received the governor's approbation?

The governor feels a reluctance in being thus constrained to appeal to the judges for their opinion, but as before remarked, he trusts they will see an ample apology in the importance of the first instance of such a case that has ever occurred, being decided agreeably to the fair construction of the constitution. And it will give him pleasure if the judges should be of the opinion that the adjournment of the House of representatives, without the concurrence of the Senate, has not been made in violation of the constitution, and that both branches can be continued in the exercise of their Legislative functions, notwithstanding any irregularity in the adjournment.

With great respect, I have the honor to be, Your most obt. and very humble servant. ANDREW GREGG. Philadelphia, Jan. 9, 1822.

SIR,—We have the honor of acknowledging the receipt of your letter addressed to the chief Justice of the Supreme Court, and the presiding Judges of the District Court of Philadelphia, on the important subject of which, we thought it best to hold a joint consultation.

Although we would not shrink from the discharge of any official duty, however delicate, or arduous, and should be disposed to go even beyond the strict line of duty, in giving our best advice to the Chief Executive Magistrate, in the construction of existing laws, whenever he should do us the honor of requiring it, yet we hold ourselves bound to look to the constitution of the commonwealth, before we undertake to give an opinion on the constitutionality of any proceedings of the Legislature, which have not passed into the form of a law. In that instrument, we find no provision warranting such an opinion. It appears to us, therefore, that we ought to abstain from assuming a station not assigned to us by the constitution, in which we must commit ourselves on points of the most momentous importance, that might afterwards be brought judicially before us.

We beg you, Sir to assure his Excellency, the Governor, of the high respect we entertain for him, and of our regret, that, consistently with what we conceive to be our duty, we cannot give an opinion on the questions which he has done us the honor of requesting you to submit to us.

We avail ourselves of the opportunity of assuring you, sir, of the great respect, with which we have the honor to be, Your most obedient servants, Wm. TILGHMAN, THOS. DUNCAN, JARED INGERSOLL, JOS. B. M'KEAN, BENJ. R. MORGAN. Andrew Gregg, Esq.

Mr. Southerland moved to refer the message and correspondence to a committee.

Mr. Middleswarth observed that he would like to hear some reasons for the motion.

Mr. Southerland said the tenor of the message was to shew that the Legislature had acted improperly, and he wished the subject placed before the public in a clear manner. It went to implicate the Legislature, as it would appear upon the Journal, his design was to put something there, on the part of the Legislature, by way of offset.

Mr. G. Moore was for referring the subject to the early attention of the next Legislature. It was trifling away the session to be acting in this manner.

Mr. Gilliland denounced the whole proceedings of the Executive as a conspiracy; and it was improper to remain silent under the gross imputations cast upon them.

Mr. Southerland said a few words in reply to Mr. G. Moore. And Mr. Lehman made a remark upon the propriety of permitting the papers to lie on the table.

Mr. Todd hoped the reference would not take place. He thought the letter of Judge Smith as good a view of the subject as any committee could place upon the Journal.

Mr. Middleswarth could not imagine in what better shape the matter could be put upon the Journals, than it would be by the correspondence itself.

Mr. Southerland wished the matter referred, in order that there might be a full understanding of the governor's message, accompanying the correspondence. It contained statements that were false, and he called upon the House to support its honor and dignity.

The governor's message ought to be examined, and the result placed before the public. But if it was only time that was wanted to consider the subject, he had no objection to withdraw his motion, giving notice that he would call it up to-morrow.

The motion to refer was accordingly withdrawn.

CONGRESSIONAL DISTRICTS.

On Tuesday last, the committee appointed by the house of representatives to fix the congressional districts of this state, reported a bill containing the following regulations:

Districts.	No. reps.
Philadelphia city & Delaware county	2
Philadelphia county	2
Montgomery & Chester	2
Lancaster	1
Dauphin & Lebanon	1
Bucks, Northampton Pike & Wayne	2
Berks, Lehigh & Schuylkill	2
Cumberland, Perry, Franklin & Adams	2
Fayette & Greene	1
Washington	1
Westmoreland, Indiana & Jefferson	1
Bedford, Somerset & Cambria	1
Erie, Warren, Crawford Venango & Mercer	1
Allegheny, Armstrong Butler & Beaver	2
York	1
Huntingdon, Mifflin, Centre & Clearfield	1
Northumberland Union, Lycoming, Columbia, Luzerne, Susquehanna, Bradford, Tioga, Potter and M'Kean	3

It is supposed by some of the eastern papers that flour will now demand a better price than heretofore, owing to the destruction of mills and mill dams, by the late fresh.

The brig Pocahontas, arrived from Canton on Saturday with a valuable cargo of teas and silks, has been 221 days on her passage. Captain Snow, late commander, died on the 6th of March of the scurvy, after being sick 65 days. The vessel was then commanded by G. W. Teel, a young man 17 or 18 years of age, who went out before the mast, and who deserves great credit for bringing the vessel in. Of the original crew which left Providence in the Pocahontas, but two have returned, G. W. Teel being one the remainder died of the scurvy.—When the Pocahontas came in, she had but three or four persons able to do duty. She was within 12 miles of Sandy Hook eight days ago, but was obliged to stand off. The body of captain Snow was brought in, and has been sent to his family in Providence. N. Y. D. Adv.

Captain Taylor, of the ship Alexander, who arrived this forenoon from Lisbon, states that a ship of the line and six transports sailed from that place on the 18th of January for Rio de Janeiro, with 1200 troops on board.

V. A. F. Da Costa, Esq. secretary to the Portuguese Legation, arrived here yesterday morning in the ship Alexander from Lisbon.

From the New York American. It is said in the English papers that Lord Byron has been recently amusing himself in writing a burlesque of Southey's vision of Judgement; and that he has also invited Mr. Leigh Hunt to reside with him at Pisa, where in conjunction with Mr. Percy B. Shelly, they intend to labor in support of some periodical works for the benefit of their native land.

New York, March 12. Captain Hathaway, from Lagaira, informs that Porto Cabello was still in the hands of the royalists, and declared in a state of blockade. The market at Lagaira was completely overstocked with all kinds of goods, and produce scarce; coffee \$20; cocoa \$23.

From the New York Com. Advertiser. Newark, N. J. March 9.

"A mysterious stranger," came to the tavern of Stephen Roff, in this town, last evening, in a hired carriage from New Brunswick, and after suffering the most excruciating agony, for several hours, expired about half past ten o'clock. Every thing relating to him; his place of residence and family are involved in mystery. The driver who brought him from New Brunswick says he came there in the Trenton hack, the driver of which informed him that his name was Lewis, and that he knew nothing more about him or his character; whence he came or whither he was going. On his arrival here, he was too ill to help himself, and in a very short time died, obstinately refusing to disclose any thing concerning himself. The physician who was called, says he died of an inflammation in the bowels, which were in a state of mortification. He was apparently about 40 years old, of a slender make, about about 5 feet 9 inches high, and had black hair and whiskers. He had no papers about him of any description, except 1400 dollars in bills on the bank of North America [Philadelphia] one of which was for \$1000.—It is a strange and mysterious case, and the early publication of the circumstances of his death may lead to a discovery of his character. If he has left a family, it