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ELWELL & BITTENBENDER  
EVERY FRIDAY MORNING  
AT HOOBSBURG, THE COUNTY SEAT OF COLUMBIA  
COUNTY, PENNSYLVANIA.  
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THE COLUMBIAN,  
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FRIDAY JUNE 12, 1891.

## SENATOR HERRING'S SPEECH.

The following is the speech in full of Hon. Grant Herring, in reference to issuing the Commissions to the appointees made by Governor Beaver:

Mr. HERRING.—Mr. President, more than five days have elapsed since the Governor sent in a list of names for appointment, I desire to make a motion at this time that the Senate go into executive session for the purpose of considering the nominations sent in on Wednesday last and to say a few words why, in my opinion at least, this motion should be carried.

Mr. MONAGHAN.—Mr. President, I second that motion.

Mr. HERRING.—Mr. President, notwithstanding the fact that war was declared on the same question on the ninth of April last, we are again tempted to its discussion. Since that time it has occurred to us that some very important phases of the question were lost sight of in the heat and passion of that first day's struggle, but now that the smoke of battle has cleared away and we have had a month's time for deliberation it does occur to us that these fighting gentlemen on the other side of the chamber should listen to the voice of reason and turn aside from their evil ways. We have a few suggestions to offer in hope that the law may step in and decide the "late unpleasantness." If, however, we fail in this then we have only to say that we have prepared ourselves for a second encounter.

In discussing the question it is our desire to do it in no mean spirit of malignity or vituperation, but to argue the issues raised from a purely legal standpoint. Railing accusation would ill become the occasion. If we shall not be able to convince our brethren of the error of their ways by the force of reason and logic we can hope to accomplish it in no other way. It may not be amiss at this time to rehearse briefly the facts out of which this dispute has arisen, for up to this point we are convinced that a misapprehension exists both as to the law and the facts. It seems on the third day of February, one thousand eight hundred and ninety, the late Governor Beaver commissioned William H. Egle to be State Librarian from the first day of February to the end of the present session of the Senate. By virtue of that commission now in his possession Dr. Egle is the present incumbent of that office. On the fourth day of February, one thousand eight hundred and ninety, a commission of like tenor and effect was issued to Dr. J. J. Waller, Jr., as Superintendent of Public Instruction, dating from the first day of March, one thousand eight hundred and ninety, to the end of the present session of the Senate. On the first day of November, one thousand eight hundred and eighty-nine, a commission of like limitation issued to William G. Martin as Factory Inspector, by virtue of which Mr. Martin is now inspecting the factories of the State. It should be remembered at this time that these vacancies in the several offices named were filled by the Governor under and by virtue of the authority contained in that clause of the Constitution which provides that "the Governor shall have power to fill vacancies that may happen in offices to which he may appoint, during the recess of the Senate, granting commissions which shall expire at the end of their next session." Matters rested in this shape until this Senate convened in January last. It was then that Governor Beaver nominated to this body for advice and consent, these several gentlemen named, to the respective offices which they now hold, for the full terms prescribed by law.

Action on these nominations was postponed by the Senate until the term of office of Governor Beaver had expired and his successor had been inaugurated. On the twentieth of January last, these nominations were taken up by this body, advised upon and unanimous consent given upon a call of the yeas and nays agreeably to the provisions of the Constitution. At this point I would have the Senate bear in mind that these nominations were not the nominations of any particular man, but of the Governor of the Commonwealth, and that in the process of appointment of these gentlemen to office, two distinct steps have been taken; first, the nomination to the Senate by the Governor and second, the advice of the Senate and its unanimous consent to their appointment. The one step more remains to be taken before these nominations can be regarded as complete, namely, the signature of the Governor to a commission. By this time the senators will see the drift of argument which I wish to present.

In the process of Constitutional appointment to office three distinct steps are absolutely necessary: first, the nomination by the Governor to the Senate; second, the advice of the Senate and its consent expressed; third, the signature of the Governor to a commission. Among other things he said: "I am not responsible to the Senate and am unwilling to submit my actions and official conduct to them for judgment. And the threat proposed in the resolution now before the Senate, that no confirmations will be made unless the demand of that body be complied with is not sufficient to discourage

been made. The power of the Senate is merely a restraining power, the power to prevent an appointment, but in no sense the power to make one.

Now as an authority upon that question, let me read briefly from Buckalew on the Constitution, page one hundred and ten: "The check upon the appointing power placed in the hands of Senators does not render the Senate primarily responsible for the appointment; that responsibility rests upon the Governor, for power to select an appointee is exclusively his and the ultimate appointment made and evinced by the issuing of a commission is also his and his alone. The Senate cannot propose any one for selection to office by the Governor." Now special attention is directed to this: "Nor even constrain the Governor to appoint a person he may have named to them for their advice and consent and to whose proposed appointment they may have consented; in short they have the power to prevent appointments which they may consider objectionable, but have not the power to cause any appointment whatever to be made."

But Mr. President we have authority in support of our position even more eminent than that of one of the fathers of the Constitution. The Great Marshal, Chief Justice of the Supreme Court of the United States, than whom our Supreme bench has never been graced by one more eminent or better learned in law, in delivering the opinion of the court in case of Marbury vs. Madison, reported in 1st Cranch, 135, uses this language: "This is an appointment made by the President, by and with the advice and consent of the Senate, and is evidenced by no act but the commission itself."

Just here it should be remarked that the power of the President to appoint to office under the Constitution of the United States is exactly co-extensive with that of the Governor under the Constitution of Pennsylvania, the one acting under the Constitution of the United States and the other under the Constitution of Pennsylvania, which in that particular is identical. He continues: "In such a case, therefore, the commission and the appointment seem inseparable, it being almost impossible to show an appointment otherwise than by proving the existence of a commission." "The appointment being the sole act of the President, must be completely evinced when it is shown that he has done everything to be performed by him."

"Should the commission, instead of being the evidence of an appointment, even be considered as constituting the appointment itself, still it would be made when the last act to be done by the President was performed, or at furthest when the commission was complete."

"The last act to be done by the President is the signature of the commission. He has then acted upon the advice and consent of the Senate to his own nomination. The time for deliberation has then passed. He has decided. His judgment on the advice and consent of the Senate concurring with his nomination has been made and the officer is appointed. This appointment is evidenced by an open, unequivocal act, and being the last act required from the person making it necessarily excludes the idea of its being so far as respects the appointment, an inchoate and incomplete transaction." Now I desire special attention be paid to this part of the opinion: "Some point of time must be taken when the power of the executive over an officer not removable at his will must cease. That point of time must be when the constitutional power of appointment has been exercised. And this power has been exercised when the last act required from the person possessing the power has been performed. This last act is the signature of the commission." "It is therefore the opinion of the court that when a commission has been signed by the President then the appointment is made." "The discretion of the executive is to be exercised until the appointment has been made."

Now let me call your attention to the famous protest of General Jackson in one thousand eight hundred and thirty-four and you will see that the same doctrine is carried out there. "It is therefore not only right of the President but the Constitution makes it his duty to nominate and by and with the advice and consent of the Senate, appoint all officers, etc. The executive power vested in the Senate is neither that of nominating or appointing. It is merely a check upon the executive power of appointment. If the individuals are proposed for appointment by the President, by them deemed incompetent or unworthy, they may withhold their consent and the appointment cannot be made."

They check the action of the Executive but cannot in relation to these various subjects act themselves nor direct him. Selections are still made by the President; and the negative given to the Senate without diminishing his responsibilities, furnishes an additional guarantee to the country that the subordinate executive as well as the judicial offices shall be filled with worthy and competent men. The whole executive power being vested in the President, who is responsible for its exercise it is a necessary consequence that he should have a right to employ agents of his own choice to aid him in the performance of his duties and to discharge them when he is no longer willing to be responsible for their acts."

The courageous answer of Ex-President Cleveland to the insolent demand of the Senate in one thousand eight hundred and eighty-six for papers, etc., is still fresh in the minds of all of us.

Among other things he said: "I am not responsible to the Senate and am unwilling to submit my actions and official conduct to them for judgment. And the threat proposed in the resolution now before the Senate, that no confirmations will be made unless the demand of that body be complied with is not sufficient to discourage

or deter me from following in the way, which I am convinced, leads to better government for the people."

It may be sufficient to remark here in passing that as a fact in history it is recorded that the Edmund's resolution fell by the way-side, while the President pursued the even tenor of his way and "to turn the rascals out."

Now, Mr. President, in the light of Marbury vs. Madison, which doctrine we may say has since been reaffirmed by this same court, there can be no good reason for this most unwarranted intermeddling on the part of the Senate with duties belonging exclusively to the Executive. On what grounds, pray tell me, is this most extraordinary conduct defended? Is it to go out before the people in this Commonwealth that Republicans in this body are so blind to reason and deaf to entreaty that they will persist in a course in defiance of the law? I submit to the sober judgment of all present has not the Senate exhausted its powers in regard to the nominations. The sole power delegated to them by the Constitution was that of advice and consent. That consent they have expressed by a unanimous vote.

What more, in the name of reason, can they do or hope to accomplish? All else lies with the Governor. For his acts he alone is responsible, and yet in the very face and teeth of such doctrines as this, we have the Senator from Tioga getting up here and proclaiming that until commissions are issued to the Factory Inspector, the State Librarian and the Superintendent of Public Instruction that Senatorial approval to all other nominations will be withheld. Why, Mr. President, the inquiry contained in a threat of that sort is past conception. Think of it, Senators of Pennsylvania, inspired by the divinity of party hate, stooping to intermeddle with the Executive business; using the higher privilege delegated to them by the Constitution as a whip to lash the Governor into the performance of an act exclusively within his own discretion. And at the same time we have the Senator from Tioga speaking of these nominations as Governor Beaver's appointments. I deny this assertion. Governor Beaver simply nominated these men to the Senate. They are no more Governor Beaver's appointments than they are appointments of this Senate. Governor Beaver took the first step, namely, nominating. The Senate took the second step, namely, consenting. It remains to be seen whether Governor Pattison will take the third step, namely, commission. And for the special information of the Senator from Tioga let me say that until this last and final step be taken, these nominations can be regarded as appointments of no man.

Upon this same subject of Senatorial intermeddling with Executive functions let me illustrate my position in this way: Suppose the Governor should so far forget himself as to send into this body a message declining to approve any further bills until he should have the assurance that this body would pass a ballot reform bill, or a bill looking to a Constitutional Convention, or a bill to equalize taxation, the three key notes to the late Democratic campaign.

What a cry of indignation would go up from Republican throats all over this body resenting this executive presumption to interfere with duties pertaining exclusively to the legislative branch of the Government. The Governor under such circumstances would be fortunate in escaping impeachment proceedings, and yet, Mr. President, but a moment's reflection will serve to convince all that the message power and the veto power of the Governor make of him much more of a legislator than the mere advisory power of the Senate makes of that body an executive.

It must be plain therefore that the Senate can no longer afford to be placed in the false position of attempting to interfere with executive functions. This is not the time or place to discuss the action or probable action of the Governor. That action is for discussion at the hustings and at the elections. There it belongs and there let it stay.

If, then, we come to the conclusion that there is no authority in law for the action of the majority in this matter we are compelled to seek for a motive to their conduct in some other direction. We find it in what the majority terms the breach of a certain contract made between Senators. We have heard much of this agreement or contract. It has been magnified until it stands now apparently an insurmountable barrier between the Senate and Governor—a block and hindrance to all future confirmations.

But when we come to analyze this agreement we find first that the Governor was no party to it whatever. That in substance it was a mere trade of confirmations between Senators on either side of this chamber; that no promise to commission was exacted by the majority, and none volunteered by the minority. That in the very nature of such things such a promise would have been impossible of performance, the Governor not being taken into the question; that all this talk about commission is an afterthought of the majority, sought to be injected into this discussion to repair their blunders. Now, I say blunders designedly because this trading of confirmations without looking after the commission can be regarded in no other light. The Republicans had on hand a batch of nominations, and they did not know what to do with them. As mere nominations without confirmation or commissions they were worthless.

The question was how to obtain the confirmations. They looked about them for a solution and suddenly a stray idea found its way among them. From the nature and character of the idea, it having an air of trade about it, it seemed most fitting that it should light on the Senator from Delaware. He had just succeeded in trading one good office for another and finally ended, as all good traders do in getting them both. So the Senator from Delaware seemed the very

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Joshua to lead the Republican host out of the wilderness, accordingly the Congressman from Delaware reasons with the Senator from Delaware after this fashion. "What we need is confirmations for three. Over there sits a lot of Democrats who in just twenty-four hours will also be in need of confirmations for three. That's even. Let's swap. No sooner said than done."

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—FOR SALE IN—  
BLOOMSBURG.  
Main Street.—Delectable building lot 50x34, price \$1200.  
First Street.—Frame house, 6 rooms, lot 50x34, price \$1050.  
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Fifth Street.—Large frame dwelling house, rooms, out-kitchen, barn, fine fruit, &c., lot 75x200, price \$4500.  
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Second Street.—Fine large residence, 11 rooms Perry Road.—Two story house, lot 400 feet deep, price \$600.  
exclusive of bath room. Steam, gas, sewer, water and all modern improvements.  
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Fine Brick Residence in Espy Pa., Lot 92 feet front 10 room house, everything in good repair recently painted and painted, well at door, central, good stable and outbuildings, fruit of all kinds. Price \$1600.  
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First National Bank Building,  
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**AUDITOR'S NOTICE.**  
In re-estate of Clonorchy S. M. Fisher, deceased.  
The undersigned auditor appointed by the Orphan's Court of Columbia county, to make distribution of the balance of the funds in the hands of the administrator of said estate to the parties legally entitled thereto, will attend at the Court on Friday, June 12, 1891, at 10 o'clock A. M., when and where all persons having claims against said estate must appear and prove the same or be debarred from any share of said fund.  
WM. CHRISMAN,  
Auditor.

**CHARTER NOTICE.**  
Notice is hereby given that an application will be made to the Governor of the State of Pennsylvania on Friday, June 12, 1891, by Paul W. Wirt, C. W. Funtston, C. C. Peacock, James Magee and James Magee and W. H. Vanderherchen, under the Act of Assembly of the Commonwealth of Pennsylvania, entitled "An Act to provide for the Incorporation and Registration of certain Corporations" Approved April 22, 1874 and the application therefor to the Charter of an intended corporation to be called the "Bloomsburg Carpet Works" the character and object of which is the manufacture and sale of carpets and other textile fabrics, and for these purposes to have, possess and enjoy all the rights, benefits and privileges of said Act of Assembly and supplements thereto.  
C. W. MILLER,  
Solicitor.

**NOTICE.**  
Assignee Estate of Emvor Dieterick.  
Notice is hereby given that the undersigned, appointed an auditor on exceptions, will attend at the office of Charles B. Jackson, Esq., in Berwick on Friday, June 20, 1891, at eleven o'clock in the forenoon and perform the duties of his appointment: When and where all persons interested in the said estate and the fund for distribution are requested to appear and make claim duly authenticated, will appear parties from ever coming in on said fund.  
May 29, '91,  
R. R. LITTLE,  
Auditor.

**Dyspepsia**  
Makes the lives of many people miserable, and often leads to self-destruction. Distress after eating, sour stomach, sick headache, heartburn, loss of appetite, a faint, "all gone" feeling, bad taste, coated tongue, and irregularity of the bowels, are some of the more common symptoms. Dyspepsia does not get well of itself. It requires careful, persistent attention, and a remedy like Hood's Sarsaparilla, which acts gently, yet surely and efficiently. It tones the stomach and other organs, regulates the digestion, creates a good appetite, and by thus Sick Headache overcoming the local sympathetic effects of the disease, banishes the headache, and refreshes the tired mind. "I have been troubled with dyspepsia. I had but little appetite, and what I did eat distressed me, or did me little good. In an hour after eating I would experience a faintness, or tired, all-gone feeling, as though I had not eaten anything. My trouble, I think, was aggravated by my business, which is that of a painter, and from being more or less shut up in a room with fresh paint. Last spring I took Hood's Sarsaparilla—took three bottles. It did me an immense amount of good. It gave me an appetite, and my food relished and satisfied the craving I had previously experienced." GEORGE A. PAGE, Watertown, Mass.  
Hood's Sarsaparilla  
Sold by all druggists. \$1; six for \$5. Prepared only by C. I. HOOD & CO., Apothecaries, Lowell, Mass.  
100 Doses One Dollar

**Heart-burn**  
I had but little appetite, and what I did eat distressed me, or did me little good. In an hour after eating I would experience a faintness, or tired, all-gone feeling, as though I had not eaten anything. My trouble, I think, was aggravated by my business, which is that of a painter, and from being more or less shut up in a room with fresh paint. Last spring I took Hood's Sarsaparilla—took three bottles. It did me an immense amount of good. It gave me an appetite, and my food relished and satisfied the craving I had previously experienced." GEORGE A. PAGE, Watertown, Mass.  
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100 Doses One Dollar

**CANDIDATES' CARDS.**  
The following is a list of Candidates for County offices to be voted for at the delegate election held Saturday, August 8th, 1891, between the hours of 3 and 7 o'clock p. m. Nominating Convention, Tuesday, August 11th.  
For Sheriff,  
BOYD R. YETTER,  
of Main Township.  
For Sheriff,  
J. B. KNITTLE,  
of Catawissa.  
For Sheriff,  
CHARLES S. REICHAERT,  
of Main township.  
For Associate Judge,  
C. G. MURPHY,  
of Centralia.

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Parker's Quinine Tonic, it cures the worst Cough, Weak Lungs, Debility, Indigestion, Pain, Backache, etc. HINDERSON'S. The only safe cure for Consumption. Price 25c at Druggists, or HINDERSON & CO., N. Y.