

From the Penna. Intelligencer.

The Apportionment Bill.

The election of members of Congress—The duty of the Sheriff—The Veto Power in the State Constitution a violation of the Constitution of the United States, when exercised on an Apportionment Bill.

In our last was published a circular addressed to the several Sheriffs of this Commonwealth, by A. V. Parsons, Secretary of this Commonwealth, stating that it was unnecessary for them to do their duty and obey the law of the land by inserting in their proclamations a notice of the election of members of Congress.

Mr. Parsons states that he is instructed by the Governor to say, that the apportionment bill, which was the object of the extra session, and which passed both Houses by a large majority, and one House by two-thirds, will not receive the Executive sanction, and this extraordinary reason is given why the Sheriffs should, under the solemn obligations of their oaths and duty disregard both the Constitution and the laws.

Under the unrepented law of that State, the Sheriffs of Louisiana have lately held an election and the people have voted for members of Congress, although it was known to all, that the members elect would not represent the State in the new Congress, under the new census of 1840. Under the UNREPEALED LAWS of Pennsylvania, the Sheriffs and People are equally BOUND to do their duty, unless it can be shown that a circular of a Secretary of the Commonwealth can, not only set aside the Constitution and the Laws, but deprive the people of the right of election, and the State of a representation in Congress!

The Sheriffs have nothing to do with the Apportionment Bill. They have no business to inquire whether an election would be valid or not. Neither they nor the Secretary of the Commonwealth, nor the Governor are judges of the qualifications of members—like the Sheriffs of Louisiana, they must obey the Law, and that LAW IS POSITIVE AND IN FULL FORCE.

The Constitution of Pennsylvania is silent on the subject of members of Congress, and they are not mentioned in that document, except to prohibit them from holding or exercising any office to which any salary fees or perquisites, are by law annexed.

The following is copied from the Constitution of the United States, and comprises all that is said in that instrument, relative to the obligation of the people to send representatives to Congress.

ART. I.—Sec. 4. The times, places, and manner of holding elections for Senators and Representatives, shall be prescribed by the Legislature thereof; but the Congress may at any time, by law, make or alter such regulations, except as to the place of choosing Senators.

In conformity with these provisions of the Constitution of the United States the Legislature of Pennsylvania, on the 2d of July, 1839, (Pamph. L. page 519,) passed a "Consolidated act relative to the elections of this Commonwealth." This act, depending upon no other act, without any proviso or contingency whatever, UNREPEALED AND IN FULL FORCE has the following sections, viz:

"II.—Elections of members of the House of Representatives of the United States. Sect. XXIII. The election of Representatives of the people of this Commonwealth in the Congress of the United States, shall take place on the second Tuesday in October, in the year one thousand eight hundred and forty, and on the second Tuesday of October in EVERY SECOND YEAR THEREAFTER, at the places appointed by law for holding, the general elections.

Sect. XXIV. It shall be the DUTY OF THE SHERIFFS of the several counties TO GIVE NOTICE OF SUCH ELECTIONS in the manner hereinbefore required in the case of general elections.

Sect. XXV. It shall be the DUTY OF THE GOVERNOR, on the receipt of the returns of the election of members of the House of Representatives of the United States, as aforesaid, by the Secretary of the Commonwealth, to declare by proclamation, the names of the persons so returned, as elected in the respective districts, and he shall also, as soon as conveniently may be thereafter, transmit the returns so made to the House of Representatives of the United States."

Thus it will be seen that not only the election law now remaining in full force and virtue requires the people of this State to elect members of Congress, on the second Tuesday of October 1842, but it is enjoined upon the Sheriffs to give notice by proclamation. Will any sheriff dare to disobey the laws, and violate his duty at the command of any Secretary of the Commonwealth?—What makes sheriffs or any other officer amenable to any man? It is the plain and bounden duty of the sheriffs to follow the law, let it lead them wherever it may. They are no judges of the qualifications of members, and have no right to inquire whether members elected can take their seats in Congress or not.

But how do sheriffs know that the apportionment bill will not become a law? The Governor himself cannot now tell, with certainty, whether it will not yet be the law of the land. Public Officers have no certain lease of their lives, as we know in the death of the lamented Harrison, and if he should die, or be incapacitated, it

would become a law, the circular of Mr. Parsons to the contrary notwithstanding. How then could the sheriffs answer to the People for depriving them of a legal election? The safe way, then is for the sheriffs to obey the law—the statute book is their only guide, be the consequences what they may. The Governor's word is not law—his circular cannot suspend a law and he himself is not only VIOLATING the law, but the Constitution of the United States, in undertaking to deprive the people of an election, enjoined upon them by both.

There is another consideration, which ought to have some weight, with both the people and the sheriffs. It is a question, yet undecided, whether the Governor's signature is necessary to an apportionment bill. The Constitution of Pennsylvania is silent upon this subject, and the same language is used in the constitution of the United States, in reference to the election of Senators and Representatives in Congress. The reason is plain, as it was never intended that one man should have the power to prevent the States from being represented. Consequently the Senators are elected by the Legislature without the concurrence of the Governor, and cannot the Legislature prescribe times, places and manner of electing Representatives without the consent of Executive Officers?

Can it be supposed that it was even intended that a Governor elected for three, four, or more years should have the power to prevent elections to Congress, and dissolve the Union in defiance of the people and their representatives? That it was never intended, is clear from the foregoing, as well as the fact that a large majority of the States of this Union are now represented in Congress under apportionment bills which required and received no signature from the Governors.

There are but eight States in the Union, unless Michigan makes nine, that give their Governors power to prevent the passage of laws unless sanctioned by two-thirds of the Legislature. These States are Pennsylvania, Louisiana, Georgia, Mississippi, Maine, New York, New Hampshire and Massachusetts. The Governors of Kentucky, Indiana, Alabama, Missouri, Connecticut and Arkansas, only have the power of returning bills for reconsideration, when, if they again pass by a majority, they become laws. Vermont only has one House, and the Governor and twelve counsellors can only suspend its bills one year, when they become law, without even the sanction of a Senate—while in the States of Virginia, South Carolina, North Carolina, Tennessee, Ohio, Illinois, Maryland, New Jersey, Delaware, and Rhode Island, the Executive sanction to bills is entirely dispensed with.

Thus it will be seen that this despotic power of some of the American Constitutions even in the hands of despots, is a violation of the Constitution of the United States, and if we are not much mistaken the spirit of freeman, now aroused by its monarchical use to defeat the will of the people, both in the General and State Governments, will ere long blot out this odious vestige of despotic power from every charter in this land of freedom.

If there is any thing in the Constitution and laws of Pennsylvania, which can prevent the Legislative majority from complying with the 4th section of the 1st article of the Constitution of the United States, it is NULL AND VOID, AND NOT BINDING UPON THE PEOPLE. That article says that "the times, places and manner" for holding elections for Senators and Representatives in Congress "shall be prescribed by the Legislature thereof."—No proviso that a Governor can make it necessary to require two-thirds—but that the Legislature, (and a majority constitutes the Legislature,) has the whole power over this subject. If a State Constitution can require two-thirds of the Legislature, it can require the acquiescence of every member—and if a Governor can take away the power of one third, he can take away the power of the whole Legislature, and the Constitution can be set aside.

That the Constitution of Pennsylvania requires the signature of the Governor to all bills, unless they pass by two thirds of both Houses, before they become a law, is true; and this making of the Governor, one third of the Legislative power, is no doubt binding upon the people, anti-democratic as it is until removed by them, except where it conflicts with the Constitution of the United States. But in the case of prescribing the times, places, and manner of holding elections for Representatives in Congress it DOES CONFLICT, when exercised, and is therefore, by the sixth article of the Constitution, NULL AND VOID. What is the language of the article?

"ART. VI.—Sect. 2 This Constitution and the Laws of the United States which shall be made in pursuance thereof, and all treaties made, or which shall be made, under the authority of the United States, SHALL BE THE SUPREME LAW OF THE LAND, and the judges in any State shall be bound thereby, any thing in the Constitution or laws of any State to the contrary notwithstanding."

The Legislature of Pennsylvania have by large majorities in both Houses, divided the State into districts for the election of members of Congress. It has in obedience to the 4th section of the 1st article of the Constitution, prescribed the time, places, and manner of holding the elections, and adjourned. Can therefore the Executive, under a clause in the State charter,

violate the Constitution of the U. States, disobey the standing laws of his own Commonwealth, deprive a legislative majority during his term of office from obeying the supreme law of the land, take away from the people the right of election, and virtually, so far as this State is concerned, DISSOLVE THE UNION?

This question is of the highest importance to the friends of free government.—We look upon it as a question higher than party, and one involving public liberty, and the union of the States. Let the Sheriffs do their duty in obedience to the law. Let the people obey both the law and the constitution, and if it needs be, let this question, so vital to our form of government, be decided by the highest judicial tribunal in the country.

The Veto Prospective.

The "Butler Herald," a *Loco Foco* paper, in speaking of the high-handed course of Governor Porter in reference to the Apportionment Bill, discourses as follows:—

"We do not feel disposed to find fault with every act of the Executive in relation to his peculiar manner of administering the affairs of the Commonwealth, but we cannot refrain from speaking out when the necessity of the case demands it. It should be the policy of every Democratic print in the State to let those entrusted with power, know when they act wrong, and not hesitate to let them know it, regardless of giving offence.

The extra session, which cost the State of Pennsylvania—the poor tax-ridden people of an almost bankrupt state—about fifty thousand dollars was called expressly for the purpose of districting the state, and now, after all the costs, trouble and expense—the whole to end in nothing, is too much. If Pennsylvania was out of debt and a few thousand dollars ahead in the Treasury, a little sport might be made at the public expense; but in our present wretched condition it is a sin to trifle thus with the interests of the people.

To the bill we have some objections: but no doubt it was as good a bill as under all circumstances could have been adopted. As to there being a small fraction over in some districts, and in others a fraction less than the ratio, it could not have been avoided, and probably if it had, would have been worse for all parties concerned, and we think the Governor should have substantial reasons for refusing his assent. Opposition to a measure like this should be based on constitutional grounds and not on the supposition that it was made for party purposes: for if it were so, every measure might be vetoed, because the Executive thought it might militate against his party, right or wrong.

In some sections it may please the people, and we hope it may; but here we assure the Governor and those who uphold him in the act, that it is by no means real degradation. It is the truth, and we wish to see it, for it would be equally licit men when they give opinion from public views of the people."

ROMANTIC ATTEMPT AT SELF-DESTRUCTION.—A young lady, some sixteen years old, named Mary Porter, residing at Stockbridge, Mass., in the family of the Rev. Mr. Austin, from some melancholy depression of spirits, bordering upon alienation of mind, recently attempted to drown herself. It was customary with her to ride out on horseback before breakfast, but one day last week, not returning as usual, some of the family went in pursuit of her. The horse without any rider was discovered by a woodsman, and on further search, the young lady was discovered perched on a rock in the middle of a shallow stream which courses in that vicinity. There she was, denuded of her riding habit, and dripping with water.—She hurried to her, and led her to the shore; and she then informed them that she had taken herself to the water with the intention of drowning herself, and had made too efforts to do so, but had found the water too shallow. She had mounted the rock to look for deeper water when she was discovered, and happily rescued.—She was forthwith conducted home, and with all practicable despatch placed in the Asylum at Worcester.

FACTS FOR PRINTERS.—There are in the United States 1,552 printing offices; 447 binderies; 148 daily papers; 1,141 weekly; 125 semi and tri-weekly papers; 227 periodicals. These offices employ 18,523 men, and the amount of capital invested is \$5,873,815.

TROUBLE ON THE COAST.—Captain Champion, of the Harriet, at Baltimore, from the west coast of Africa, reports that on the 26th April the schooner Mary Carver, Farwell, of Plymouth, Me, was captured by the natives of Barbara, and the captain and crew murdered in the most cruel manner, on account of some dispute between the captain and the natives.

Here is something rich! The Speaker of the Ohio Senate talked of an application to Gov. Corwin to call out the aid of the military, to compel the attendance of the resigned Senators! Paixhan guns and Col's rifles, but that is rich!

The late proceedings in Ohio, have aroused the Spirit of 1840. A Convention was held at Xenia, at which 10,000 persons attended.

Indigo, bound on a snake bite, is said to be a cure.



THE HUNTINGDON JOURNAL.

"One country, one constitution, one destiny."

Huntingdon, Aug. 31, 1842.

V. B. PALMER, Esq. (No. 104 S. 3rd St. Philadelphia,) is authorized to act as Agent for this paper, to procure subscriptions and advertisements.

DEMOCRATIC HARRISONIAN COUNTY TICKET.

PROTHONOTARY, JAMES STEEL, of Huntingdon. REGISTER & RECORDER, JOHN REED, of Huntingdon.

ASSEMBLY, NATHAN M'WILLIAMS, Franklin township. BRICE BLAIR, of Dublin township.

COMMISSIONER, ALEXANDER KNOX, JR. of Blair tp.

CORONOR, JAMES SAXTON, JR. of Huntingdon.

AUDITOR, THOMAS E. ORBISON, of Cromwell tp.

Dr. JOHN M'CALLOUGH and JOHN BROTHERTON were chosen Congressional Conferees, to meet other Conferees from Mifflin, Juniata and Union, in the Borough of Lewistown, on the 10th of September.

PETER HEWIT, ISRAEL GRAFFIUS, JAMES METLIN and A. J. WIGLION were chosen Senatorial Conferees, to meet in the Borough of Mifflintown, on the 9th of September.

North Eastern Boundary.

On Saturday the 20th inst. the treaty between the United States and Great Britain was ratified by the Senate, by a vote of 39 to 9. Messrs. Allen, Bagby, Benton, Buchanan, Conrad, Linn, Smith of Illinois, and Sturgeon voted against it.

The Tariff Bill.

On the 22nd inst. Mr. McKennan, introduced as a substitute for the Tariff Bill lately vetoed by Mr. Tyler, the same bill without the Distribution clause, and exempting tea and coffee from duty. This bill passed the House by a vote of 105 yeas to 103 nays, and was sent to the Senate, where it was referred to the committee on finance, who reported it with amendments. At our latest advices it was still under discussion in the Senate.

'Veto and Ditto' on a small scale.

In another part of this paper will be found the Governor's veto of Mr. Rothrock's attention bill. We commend it to little Clinton. As *little Demos* likes to whitewash the character of his Excellency this will afford him another opportunity.

Nominations.

The following nominations have been made by the Harrison Democrats, for the next Legislature.

Adams.—Maxwell Shield and William Diehl.

Allegheny.—Neville B. Craig, Hiram Holtz, James Robinson and James Sheridan.

Butler.—Samuel Marshall.

Erie.—Stephen Skinner and Lyman Robinson.

Indiana.—John McEwen.

Lancaster.—For Senate, John Lovett, House, Daniel Balmer, A. H. Hood, Chas. Carpenter, Andrew Thompson, Jacob Foreman, John Warfel.

Lebanon.—For Senate, Levi Kline.—House, Daniel Stine.

Union.—John A. Valvanzah.

'Revolutionary.'

"The Federalists are, and always have been revolutionary in their movements."—Clinton Democrat.

If you mean the Whig party, you are right for once, FLAP. They were "revolutionary" in 1776, and have been so ever since.

We are indebted to the Hon. WM. W. INGRA for a copy of his speech "on the duty of Congress in the present crisis," delivered in the House of Representatives, in Committee of the Whole on the state of the Union, on the 12th inst.

The September No. of the "Mother's Magazine" has come to hand. It contains an excellent article on Neglected Children.

Mr. Wise made his second aerial voyage from York, Pa. on Saturday the 20th inst., being his 37th ascension. He landed seven miles south of Lancaster, having made the voyage in about an hour.

Ohio Legislature.

Last week we published an important statement which we copied from the Ohio State Journal of the 11th inst., showing that no Apportionment Bill had passed the Legislature of Ohio, and announcing the fact that the Whig members of the Senate and House of Representatives had resigned their seats, and appealed to the people. We have since received, in the Ohio papers, the Address of the Democratic Whigs late members of the General Assembly, to the people of that State. The Address shows that the present Loco Foco majority were recklessly bent on perpetuating their power by an utter disregard of their oaths and the interests of the people; and that the Whigs were to be, as far as it was possible, disfranchised.

A statement is given in the Address which shows that by the bill which the Loco Focos had determined to force through the Legislature, and which would have passed had not the resignation of the Whig members prevented it, one half of the Whigs in the State would have been disfranchised. They say, "were the Whigs to carry the State by ten thousand, they could elect only SEVEN members of Congress, while the minority would elect FOURTEEN."

The act of Congress, which requires the State to be divided in single districts of contiguous territory, would have been most grossly violated by the bill which the Whig portion of the Legislature have defeated in this novel manner. One district, composed of the counties of Ashland, Lake and Cuyahoga, runs about one hundred miles along the lake shore, and in some places is not more than from six to ten miles in breadth. The district composed of the counties of Holmes, Wayne and Summit is formed of counties which scarcely touch each other. Another district extends from the centre of the State almost to the Indiana State line. And another runs along the Ohio river for some two hundred and fifty miles. Why all this gerrymandering? The answer is plain. It is to gratify the vaulting ambition of some of the Loco Foco members who have set their hearts on going to Congress.

The seven Whig districts contain 524,702 inhabitants; while seven Loco Foco districts contain only 462,499, leaving a Whig excess of 62,203; a greater amount of population than is contained in one of the Loco Foco districts. In fact the whole bill seems to be made up of enormities like these.

Against the passage of such an abominable bill the Whig portion of the Legislature at first raised their voices loud in remonstrance. They invoked the spirit of their institutions, which frowned upon the bold attempt of the minority to rule the majority; they pointed to the law of Congress; they reminded the Loco Focos of their oaths; they appealed to their sense of justice; but every appeal was in vain. It had been resolved in secret midnight caucus, and the unholy decree had gone forth, and every Loco Foco member was pledged to the support of the abominable and iniquitous bill. What were the Whigs to do in this emergency? Could they sit, and tamely submit to see the rights of their constituents thus violated? No. Such conduct would have been a disgrace to the name of Whigs.—In Ohio the Governor cannot defeat a bill by a veto power, for no such power is known to the Constitution. The only way to defeat it was to withdraw from the Legislature and leave it without a quorum to do business, the Constitution requiring two thirds.

To us the conduct of the Whig members, under the peculiar circumstances which surrounded them, was highly commendable. They availed themselves of the only constitutional means left them of serving their constituents, by preventing the passage of so monstrous a bill, which was to sway the political destinies of the State for ten years to come. They threw the trust reposed in them back to the hands of the people, and left it to them to say whether they will submit to such legislation as was attempted to be practiced upon them.

It will be remembered that this stretch of usurpation was attempted by the very party who lately endeavored to overturn the Government of the State of Rhode Island for the purpose, as they then falsely avowed, of extending the right of suffrage. In Ohio they attempt to disfranchise upwards of 60,000 freemen—some dozen times as many as they profess to wish to extend the right of suffrage to in Rhode Island.

Such are the unhallowed works of Loco-focism.

Oh, for a line—to fill this column.

A NOVEL CASE.

Andrew J. Rothrock vs. David R. Porter.

(1st Kichapoo's Report, page 1.)

This was a suit brought before DANIEL AFRICA, Esq., Justice of the Peace in and for the Borough of Huntingdon, to recover from the defendant the balance due on the following account in favor of the plaintiff—

To D. R. PORTER To A. J. ROTHROCK, Dr. For work done in 1837 in Gaysport, Pa. To plastering 8,50 sq. yards a 12 1/2 per yard, \$103 75 " do. 1,70 " 10 17 00 " do. 34 " 64 2 12 1/2 " 1000 Lath " 2 00 " paid cash for hair 1 00 " Bill rendered by D. Lindsey for hauling 3 25

Credit \$74 12 \$129 12 1/2

HUNTINGDON COUNTY, SS.

Before me the subscriber, one of the Justices of the Peace in and for said county, personally appeared Andrew J. Rothrock, who after being sworn according to law did depose and say that the above account as it stands stated against David R. Porter, is just and true, and further saith not.

A. J. ROTHROCK. Sworn and subscribed the 20th day of May, 1842, Before me.

DANIEL AFRICA.

The defendant had "at sundry times and in divers places" promised to settle with the plaintiff or his agent, Wm. Rothrock; but there was always some reason or excuse for not doing so. At Harrisburg he could not settle because the papers were at Huntingdon, and at Huntingdon he could not settle because the papers were at Harrisburg. Thus the matter stood until the 18th day of August 1842, when the plaintiff's agent heard that his Excellency the Governor, in disregard of his promises, intended to leave for Harrisburg, when he called on the Justice to issue a summons, which was put into the hands of the proper officer to be served; but as he thought the report that the Governor intended to leave without a settlement was perhaps a false rumor, he instructed the Constable not to serve the summons unless the Governor went on board of the packet boat that night. The boat came,—the Governor stepped on board, and so did Constable Port. They passed down to the first lock, and there the writ was served, when the Governor directed the Constable to make the following return; which was accordingly endorsed on the writ.—"August 18th 1842, served personally, defendant pleads his privilege. Alexander Port, Con." The 25th was the day appointed for hearing the case. John Cresswell appeared for the Governor, and presented a paper, drawn up by his Excellency himself, of which the following is a copy.

"In the case of Before Daniel Africa a Justice of the Peace in and for the county of Huntingdon, vs. David R. Porter, Plaintiff vs. Defendant. The defendant by his agent John Cresswell appears and pleads that at the time of issuing the writ in the above stated case, he was and still is the Governor of the Commonwealth of Pennsylvania, elected and sworn, and performing the duties thereof. He therefore prays that the said writ and the service thereof may abate.

DAVID R. PORTER. Personally came before the subscriber, one of the Justices of the Peace in and for the county of Huntingdon, John Cresswell, who being duly sworn, doth depose and say that the facts stated in the foregoing plea to the above stated case are true, to the best of his knowledge and belief.

HUNTINGDON COUNTY, SS.

Sworn and subscribed the 25th day of August 1842, Before FRANK B. WALLACE.

The Justice, however, not having the fear of the great Kichapoo and the bloody scalping knife before his eyes, but determined to do justice in the case, without "fear, favor, affection, reward, gain or any hope thereof," and without "envy, hatred or ill-will," proceeded to hear the case, and gave judgment for the plaintiff for the sum of \$55 00, and costs of suit.

It seems that in Pennsylvania the Governor is not privileged from suit, so as to enable him, after being six years in office, to plead the statute of limitations on all debts contracted before the expiration of his term of office—a practice which would, no doubt, become very fashionable in this State some two or three years hence.

Now, as a matter of course, and according to custom, some folks won't believe a word of what is above contained. But we cannot help it. There is, however, a record of the whole case in the office of Daniel Africa, Esq.; and Sir William Blackstone, the great English commentator, assures us that a record is "a matter of so high a nature, and importeth in itself such absolute verity, that if it be pleaded there is no such record, it shall not receive any trial by witnesses, jury, or otherwise,