

64 VOTES AND PROCEEDINGS, NOVEMBER SESSION, 1802.

BY THE SENATE, JANUARY 10, 1803.

GENTLEMEN,  
IN our opinion the business of the session is not finished; in other words, the senate wishes and intends to take some order with respect to the executive of the state; to enable them to prepare that, they have determined to adjourn until to-morrow morning.

By order,  
The senate adjourns until to-morrow morning 9 o'clock.

J. B. DUCKETT, clk.

T U E S D A Y, January 11, 1803.

THE senate met. Present the same members as on yesterday. The proceedings of yesterday post meridiem were read.

The following resolutions were read, agreed to, and sent to the house of delegates by the clerk.

BY THE SENATE, JANUARY 11, 1803.

BY the constitution the legislative, executive and judicial departments, are distinctly separated, neither have a right, within the sphere of action of the other, to control or expound the limits fixed by the constitution to each, therefore any opinion the legislature may express, or any construction they may give to the constitution, in which the executive authority is implicated, cannot in any manner conclude that department, nor will it be bound to adopt the legislative construction; but as the governor and the council have both expressed a desire that the legislature should give an opinion, and as that opinion may close the misunderstanding that has taken place in the board, although we disclaim any right of concluding by our decision, still we consider it by no means improper to comply with their mutual request; therefore RESOLVED, That at the time of passing the resolution respecting the appointment of commissioners on the part of this state to meet such commissioner or commissioners as may be appointed on the part of the state of Pennsylvania and on the part of the Susquehanna canal company, respecting the navigation of the river Susquehanna, it was the intention of the legislature, that those appointments should be made by the governor and council in the same manner, and not otherwise, that the civil officers of government are appointed.

AND RESOLVED, That it is the opinion of this legislature, that the practice that has long since prevailed in the executive, of indiscriminately nominating persons for appointments by the governor, as well as by the council, or any member thereof, is the safest, and perhaps the best, construction that we can put upon the constitution, and that the person obtaining a majority of that number of the council that constitutes a quorum, is constitutionally elected.

By order,  
The following message was read, agreed to, and sent to the house of delegates by the clerk.

BY THE SENATE, JANUARY 11, 1803.

J. B. DUCKETT, clk.

GENTLEMEN,  
WE have finished the business before us, and are ready to close the session.

By order,

J. B. DUCKETT, clk.

The clerk of the house of delegates delivers the resolutions respecting the executive, endorsed; "By the house of delegates, January 11, 1803: Read the first and second time by especial order, the first resolution assented to, and the last resolution dissented from."

"By order,

W. HARWOOD, clk."

And the following messages:

BY THE HOUSE OF DELEGATES, JANUARY 11, 1803.

GENTLEMEN OF THE SENATE,

WE have dissented from your last resolution which contains an expression of your opinion on the constitutionality of the practice which has heretofore obtained relative to appointments by the executive, because we decline expressing an opinion on the construction of the constitution relative to the duties to be performed by the executive.

By order,

W. HARWOOD, clk.

BY THE HOUSE OF DELEGATES, JANUARY 11, 1803.

GENTLEMEN OF THE SENATE,

WE have finished the business before us, and are also ready to close the session. We therefore hope the governor will be notified that his attendance is requested in the senate chamber to sign and seal the laws.

By order,

W. HARWOOD, clk.

Which were read.

On motion, ORDERED, That Mr. Nelson and Mr. Ringgold wait upon his excellency the governor, and request his attendance in the senate chamber to sign and seal the engrossed bills.

His excellency the governor attending in the senate, ORDERED, That Mr. Houston and Mr. Johnson wait on the house of delegates, and inform them, that the governor is attending in the senate for the purpose of signing and sealing the engrossed bills, and request their attendance.