

made on the second day of May instant when the Governor was not present, on which no Commissions have been issued: and the Governor having declined to sign the Commissions unless under a reservation of the questions that may arise on the constitutionality thereof and the Board having advised to reconsider these appointments, It is ordered and declared (the persons so appointed having the approbation of the Board) that the signature of these Commissions by the Governor shall not be considered as a waiver of the right either of the Governor or Council, but as proceeding from a mutual desire of forwarding the public business in a manner authorized by the Constitution pending the doubts which now exist as to its true construction.

The Governor having required the advice of the Council in writing on the above proposition submitted by himself, we take the liberty of stating, that we consider the appointments of the second of May instant constitutional and valid:—The Members who then attended having acted in conformity to the provision of the Constitution authorizing the transaction of business in the absence of the Governor. Under this impression, it appears to us, that the entering the above proposition on the Journal, as the act of the Board, might be considered a tacit recognition of the existence of doubts in our minds, on the authority they have thus exercised. Should this not be the effect, yet the Council would in some measure be committed as to their future Proceedings, after the adoption of such an entry, it might be supposed that propriety would dictate, that they should not again make appointments in the absence of the Governor (even if he should be out of the State, as we believe was the fact when the above appointments took place).

Under this view of the subject, we are of opinion that the proposition submitted to the Council ought not to be adopted as the act of the Board. We can see no objection to the Governor's entering at large on the Journals the motives that may induce him to sign the Commissions, and at the same time making any reservation he may think expedient on what he contends to be his general right.

Francis Digges
Allen B. Buckitt
Edward Hall
Purvey Chenier

Ordered, that the Bill intitled, an act to alter, change, and abolish all such parts of the Constitution, and Form of Government, as relate to the time and manner of Electing the Senate, and the mode of filling up Vacancies in that