

# VOTES AND PROCEEDINGS, JUNE SESSION, 1809.

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By the HOUSE of DELEGATES, June 8, 1809.

*Gentlemen of the Senate,*

ON the 6th instant a message was received from your honourable body, proposing to proceed, by joint ballot, to the election of a senator to represent this state in the senate of the United States for the constitutional period. If we declined giving an immediate and direct answer to that message, it is not to be attributed to inattention or disrespect, but being sincerely anxious that the disagreement, which it was foreseen would arise between the two houses, as to the person contemplated for senator, might be eventually adjusted in a spirit of mutual accommodation, we wished to avoid any precipitate step, by which our hopes of such an arrangement would be at once entirely precluded.

Guided by these hopes, and actuated by motives equally liberal and just, we yesterday submitted to the senate a proposal for a conference, by a joint committee of the two houses, on this very important and interesting subject. An answer was immediately returned from the senate, rejecting, in decisive terms, the proposition for a conference offered on the part of this house.

Thus circumstanced, no alternative was left to us, but either to yield implicitly to the course insisted on by the senate, which must eventuate in an appointment highly repugnant to the sentiments of a majority of this house, and to the people of the state of Maryland, whose delegates they are, or else to assert a constitutional right of resolving on the mode of concurrent choice, by which the wishes and feelings of our constituents and ourselves might, in some degree, be regarded, and gratified in the election finally to be made. The name of John Eager Howard, a name distinguished in the annals of American patriotism, of untarnished virtue, and high estimation in the hearts of his countrymen, was inserted in the resolution transmitted to you yesterday, because we believed such a choice would be equally satisfactory to the people, and honourable to ourselves, but if this nomination was not agreeable to the senate, unless they were determined to confine the choice to a particular individual, and compel us to re-elect him, and him alone, against whom it is known, that in this house, and throughout a majority of the counties, there exist great and insuperable objections; if such was not the determination of the senate, we should have hoped they would have preferred the opportunity of uniting with us in a plan of reasonable concession on both sides, and have selected some character, in whose appointment both houses might concur, without any violent sacrifice of duty or opinion.

In this hope, however, we have been again disappointed by your message of to-day, informing us, that the senate will persist in adhering to the ground they have assumed, and which they pronounce to be the only correct and proper one. Let us examine the accuracy of this belief.

By the constitution of the United States, power is given to the state legislatures to prescribe the manner, as well as the time and place, of holding elections for senators and representatives to congress.

In the state of Maryland, there has never been any law, nor any fixed resolution of the legislature, prescribing the manner of electing senators.... The mode has always been regulated by a special message between the two houses, applying only to each particular election. In some of the states, it is well known, that at different periods different modes have prevailed. Where there is no legislative provision on the subject, the constitution of the United States having said, that the senators shall be chosen by the legislature, it would seem that this, like all other legislative acts, was to be the concurrent act of the two branches of the general assembly. We admit, that the legislature may vary the mode of election in any form they please, but in this case, where there has been no general regulation permanently establishing the mode, the senate must also admit, for they are certainly too intelligent not to know, that the mode now pursued by the house of delegates is constitutional and right.

Being impressed with a firm and perfect conviction of our own rectitude, and having made overtures in a style of equal candour and moderation, we must suppose, that the senate are too reasonable to expect that their views are to be exclusively indulged, the rights of this house entirely abandoned, and that a body, so remotely elected, and now constituted, as the senate is, on an occasion so important, and in certain respects so extraordinary, at the present, ought and are imperiously to control and overrule the will of the people, expressed through their immediate delegates, the recent depositories of the public confidence, and the constitutional guardians of every popular privilege.... The senate surely cannot expect of us so flagrant a departure from the path of fidelity; and, while we regret they should continue insensible to the consequences of their own inflexible design, we are in some measure consoled by the consciousness, that having repeatedly attempted ourselves, as far as could be, to conciliate and adjust this untoward difference, if these attempts shall have altogether failed, no blame can attach to a majority of this house, nor can they be considered in any degree responsible.

By order,

J. BREWER, clk.

Which were severally read the first time and the resolutions ordered to lie on the table.

On motion, ORDERED, That the message from the house of delegates, relative to the appointment of a senator to represent this state in the senate of the United States, be referred to a special committee.

ORDERED, That Mr. Somervell, Mr. Lowrey and Mr. Lloyd Dorsey, be the said committee.

The resolutions relative to repairing the armory at Frederick-town and at Easton, were severally read the first time by especial order and dissented from.

On motion, ORDERED, That Mr. Glenn and Mr. Somervell wait upon the governor elect, and request his attendance in the senate room to qualify agreeably to the constitution and form of government.