

JOURNAL

OF THE

SENATE

OF THE

COMMONWEALTH OF PENNSYLVANIA,

General Assembly,

FOR THE

Senate.

EXTRAORDINARY SESSION BEGUN AT HARRISBURG,

On the 13th Day of October, 1891.

HARRISBURG:

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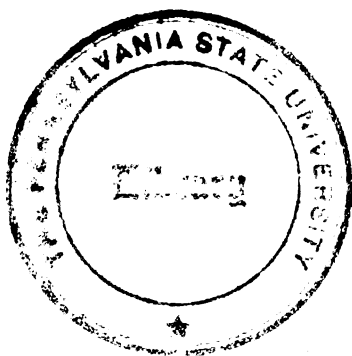
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JOURNAL
OF THE
Proceedings of the Senate of Pennsylvania.

EXTRAORDINARY SESSION OF 1891.

TUESDAY, OCTOBER 13, 1891.

This being the day fixed by the Governor of the Commonwealth in his proclamation convening the Senate in extraordinary session, the members of the Senate assembled in the Senate chamber at noon, the Hon. LOUIS A. WATRES, President, in the chair,

The PRESIDENT announced that the hour of twelve o'clock had arrived, and called the Senate to order.

The session was opened with prayer by the Rev. Leroy F. Baker, Chaplain of the Senate.

The invocation was as follows:

"Almighty God, who showeth power and mercy in the protection of all nations and peoples professing Thy eternal truth and putting their sure trust in Thee, we praise Thy holy name for all Thy mercies. We thank Thee for the propitious seed-time and for the abundant harvest Thou has sent this nation: for the peace, plenty and prosperity we enjoy. We pray Thee, O Lord, for our rulers; may they truly, impartially and in Thy fear, discharge the functions to which they are called. We pray, O Lord, for that member of this body who is now lying in grievous sickness. Give him a happy issue out of all his afflictions. And be Thou to with that one who has been called to another field of labor. May he occupy it with all fidelity and honor. Guide Thou, O Lord, the members of this assembly in the solemn duty that brings them here together. May they seek, above all things, to know and do the right. Keep them from all error, prejudice and passion. Make Thou their way plain before them that, by their efforts, whatsoever things are true, honest, pure and of good report may be known and believed among us through all generations. This we ask through Jesus Christ, our Lord. Amen."

After which, by direction of the President, the roll of Senators was called by the clerk.

Forty-five members of the Senate responded. Their names are as follows :

Messrs. Bates, Becker, Brandt, Brown, Crawford, Critchfield, Crouse, Dunlap, Flinn, Gobin, Grady, Green, Hall, Henninger, Herring, Hines, Keefer, Laubach, Lemon, Lloyd, Logan, McCreary, McDonald, Markley, Meek, Monaghan, Neeb, Osbourn, Packer, Porter, Rapsher, Robins, Robinson, Rooney, Ross, Showalter, Sloan, Smith, of Philadelphia, Smith, of Lancaster, Steel, Thomas, Thompson, Upperman, Williamson and Woods—45.

The PRESIDENT. A quorum of the Senate being present, the proclamations of the Governor of the Commonwealth, convening the Senate in extraordinary session, will be read by the clerk.

The CHIEF CLERK (E. W. Smiley, Esq.), here read the proclamations of the Governor of date of 26th of September, 1891, and 12th of October, 1891, which were then laid on the table.

COMMITTEE OF NOTIFICATION TO THE GOVERNOR.

On motion of Mr. Grady, the following resolution was twice read, considered without debate and agreed to, viz:

Resolved, That a committee of two be appointed to notify His Excellency, the Governor, that the Senate is now in session in compliance with his proclamation convening the same.

The PRESIDENT. At the instance of the Senator from Lebanon, the President *pro tem.* (Mr. Gobin), the chair constitutes as the Committee Senators Grady of Philadelphia and Markley of Montgomery.

LEAVES OF ABSENCE.

Mr. PACKER. Mr. President, I ask for leave of absence for my colleague, the Senator from Bradford (Mr. Newell), for the session of this day.

Leave was granted.

Mr. THOMPSON. Mr. President, I ask for leave of absence for the Senator from Lawrence (Mr. Mehard), on account of sickness.

Leave was granted.

Mr. THOMAS. Mr. President, I ask for leave of absence, for a few days, for my colleague, the Senator from Philadelphia, Mr. Penrose.

Leave was granted.

REPORT OF COMMITTEE OF NOTIFICATION TO THE GOVERNOR.

Mr. Grady, from the committee appointed to wait upon the Governor and inform him that the Senate was convened in extraordinary session, in conformity with the proclamations of His Excellency, reported that the committee had performed that duty, and that the Governor would communicate with the Senate, in writing, this day.

MESSAGE FROM THE GOVERNOR.

The private secretary of the Governor, being introduced, presented a message in writing from His Excellency, which was read as follows, viz:

EXECUTIVE DEPARTMENT OF THE COMMONWEALTH OF PENNSYLVANIA,
OFFICE OF THE GOVERNOR,
HARRISBURG, PA., October 13, 1891.

To the Senate of the Commonwealth of Pennsylvania :

GENTLEMEN: By virtue of the authority vested in me by the Consti-

tution, I have convened you in extraordinary session by proclamation for the transaction of executive business. In my judgment, conditions exist in the Commonwealth to warrant and require the exercise of this power. The Constitution provides that all officers elected by the people, other than some especially excepted, shall be removed by the Governor for reasonable cause, after due notice and full hearing, on the address of two-thirds of the Senate. Having convened you in order to give you an opportunity to take appropriate action, under your constitutional powers, with relation to the alleged misconduct of the heads of two departments of the state government as well as of other elective officers, I deem it my duty to briefly review the course of events which have led to the call for this session of the Senate, and to refer you to such sources as I know of for further information.

On or about May 21, 1891, John Bardsley, treasurer of the city and county of Philadelphia, elected in 1888, and whose term would not have expired until the end of the present year, practically retired from the active discharge of the duties of his office, and tendered his resignation of the same, to take effect on May 30. It was soon disclosed that very large sums of money which he had from time to time collected for the Commonwealth of Pennsylvania, had not been paid over by him, and that no adequate security for the same existed or had ever been given to the state.

For the several months succeeding the retirement of John Bardsley from his office, various investigations have been in progress with a view to ascertain the character and extent of his malfeasance, the complicated transactions in which he was engaged, using the public moneys for private speculation and other unlawful personal purposes; and to discover, if possible, the connection and complicity of other persons, official or private, in his illegal and criminal acts. One of these investigations is being conducted by a committee of the councils of Philadelphia and another is in charge of experts, duly appointed and acting under the authority of the mayor of Philadelphia. Representatives of the Treasury department of the United States have been engaged, for many weeks, in examining the books of at least two of the national banks in which John Bardsley deposited city and state funds. A commission, assisted by expert accountants of my own appointment, has likewise been engaged in investigating the accounts of John Bardsley with the banks, and has been inquiring generally into the relations of the accounts of John Bardsley with the Commonwealth and his transactions with its moneys. The present treasurer of Philadelphia city and county is also actively and earnestly engaged in investigating the practices and in uncovering the abuses which have prevailed in the former administrations of his office, especially touching its relations to the Commonwealth.

Criminal prosecutions were begun against John Bardsley by the District Attorney of Philadelphia, and terminated with his plea of guilty and sentence to fifteen years imprisonment in the Eastern penitentiary for the conversion of public moneys to his own use and for loaning them for interest.

In a preliminary hearing before two judges of the courts of Philadelphia, conducted by the District Attorney of that county, John Bardsley was called as a witness to testify to his relations with the state officials, whose duty it was to require from him an accounting for and payment of the money collected by him for the Commonwealth. He persistently and defiantly refused to testify, whereupon it was held by the court and

by the District Attorney that no warrant for the arrest of the state officials could, under the circumstances, properly issue.

At that hearing, and subsequently, a large number of letters were produced, substantially admitted to be genuine, written to John Bardsley by officers of the Commonwealth, whose duty under the law it was to have required accounting for and payment to the Commonwealth of the public moneys coming into his hands.

A joint committee of the two branches of the legislature, appointed January 19, 1891, authorized to inquire into the administration of the offices of Auditor General and State Treasurer, and instructed to report to the Executive at the earliest time possible, has held sessions from time to time since the adjournment of the Legislature, and the evidence which it has taken will be accessible to you, I assume.

Hon. George S. Graham, District Attorney of Philadelphia county, and Hon. E. S. Stuart, Mayor of Philadelphia; Francis B. Reeves, chairman of the commission appointed by the Executive of the Commonwealth, and Mr. William Van Osten, chairman of the committee of councils, have freely offered to furnish all the evidence in their possession bearing on the subject of the present inquiry.

From these various sources of information it appears to be the undisputed fact, that during most of his official term, John Bardsley was permitted to retain and use a very large amount of money collected for and payable into the State Treasury, for which he neither made, nor was ever called upon and required to make, the account directed by law.

For the collection of the moneys so retained by him no such legal steps were ever taken as are mandatory upon the State Treasurer and Auditor General; and he is shown to have embezzled them to the amount no more than a million and a quarter dollars.

The memoranda and entries made in his books at the time by John Bardsley, and when he had no apparent reason to expect public disclosure or adverse use of them, indicate that apart from the salary, fees and commissions of his office, to which he was entitled by law, he made as interest, dividends and bribes nearly \$300,000. The greater part of this was paid to him for the use of the State moneys which he was allowed to retain in his possession, and for his exercise and abuse of powers in association with and under the control of the auditing and fiscal departments of the State.

The stubs of his check book and the entries upon his private memoranda, made at the time, show that he paid to a clerk of the Auditor General's office a one-half share of moneys criminally received by him from the magistrates of Philadelphia in whose hands he placed the suits for the collection of delinquent mercantile taxes. The magistrates have testified that they paid John Bardsley these moneys to the amount of \$350 each, in each year, he deducting it from their warrants on the State Treasury, which the Auditor General testifies he sent to John Bardsley, and not to the person in whose favor they were drawn.

These same memoranda and stubs show that John Bardsley regularly received large sums of money from the publishers of newspapers which obtained the advertisement of the mercantile appraisement lists, and were paid by the Commonwealth for this advertising. The selection of these newspapers was the duty and right of the Auditor General and John Bardsley, acting conjointly. It is admitted by some of the newspaper publishers that they paid these moneys to a clerk in the office of Auditor General Thomas McCamant; and the books of John Bardsley indicate that he divided the bribes thus received with Auditor General

Thomas McCamant, or with some as yet undiscovered person of the same initials. The Auditor General has denied under oath that he received any share of these moneys, and his clerk is dead.

In the volume of testimony already taken and from the reports of the different authorities engaged in the work of investigation, other significant and serious matters appear.

William Livsey, three times State Treasurer, familiar with the office, and the cashier of State Treasurer Henry K. Boyer, has been absent from the State almost continuously since the first Bardsley exposures. He is reported as being beyond the reach of all officials and investigating committees who have desired his presence for some months past. The State Treasurer has testified that he has no knowledge of Mr. Livsey's whereabouts, and that since July last he has had no communication with or from him, except to receive and accept his resignation.

Among the books and papers of John Bardsley appear evidence and memoranda made by him, to the effect that on certain days and dates he received large sums of money for interest from banks, depositories and individuals to whom he had loaned the funds of the State, which he was permitted to retain or which were transferred to him by the consent, permission, confederation and connivance of State Treasurer Henry K. Boyer, Cashier William Livsey and Auditor General Thomas McCamant.

These same memoranda and check books show payments by John Bardsley of money to William Livsey, cashier of the State Treasury, and presumably to Auditor General Thomas McCamant, from time to time during the period that he was permitted by these officials to retain the enormous amount of the State moneys which he then had in his hands.

Regularly, for a considerable period, on or about the first of each month, after receiving interest, Bardsley appears to have drawn checks for a portion of it for the benefit of some person or persons whose name cannot be ascertained by reason of the mutilation of the stubs of his check books. With like regularity and at dates quickly following his receipts of interest, as will appear from the letters of which admittedly correct copies are accessible to you, Auditor General Thomas McCamant wrote, gratefully acknowledging favors received from John Bardsley. His statement as to the meaning of these letters will also be accessible to you.

In like terms of acknowledgment for favors sent him, at dates corresponding with John Bardsley's checks, William Livsey wrote frequent letters to him.

For example: John Bardsley received interest monthly for the State moneys he was permitted by the Auditor General and State Treasurer to retain and use, instead of paying them into the State Treasury, as directed by law.

On April 1, 1890, John Bardsley drew a check, of which the stub is missing, for \$500. On April 2, 1890, he sent a registered letter to Auditor General Thomas McCamant and another to Cashier William Livsey, of which they acknowledged the receipt.

On May 1, 1890, John Bardsley drew a similar check for \$666. In a letter of May 3, 1890, Auditor General Thomas McCamant says: "Please accept my thanks for favors received this morning."

On June 2, 1890, John Bardsley drew a like check for \$666. In a letter to him, dated June 4, 1890, Auditor General Thomas McCamant says: "Your favor of yesterday received and you will accept my thanks."

On July 5, 1890, John Bardsley drew a check for some unknown person for \$700. On July 6, 1890, he received a letter in which Auditor General

Thomas McCamant says: "I have your favor and you will please accept my thanks."

On August 2, 1890, John Bardsley's check, of which the stub has disappeared, was drawn for \$700. Auditor General McCamant's letter of the same date says: "You will please accept my thanks for favors received." On August 5, 1890, Cashier William Livsey wrote: "Your complimentary note received, many thanks."

On September 4, 1890, John Bardsley drew a check, of which the stub has been torn from his check book, for \$600. On September 5, 1890, Auditor General McCamant wrote him this acknowledgment: "I have your letters this morning and you will please accept my thanks."

On October 2, 1890, John Bardsley drew a check for \$600. The letter to him from Auditor General Thomas McCamant, under date of October 3, 1890, says: "I am in receipt of your favors of yesterday, and you will please accept my thanks for the information therein contained." In a letter dated October 3, 1890, Cashier William Livsey says: "Compliments of yesterday duly received. Accept thanks for same."

On October 31, 1890, John Bardsley drew a check for \$600. William Livsey writes under date of November 5, 1890: "Am obliged for your kind note and compliments of 1st inst."

On November 29, 1890, John Bardsley drew a check for \$600. On Nov. 29, 1890, Auditor General Thomas McCamant telegraphed to John Bardsley: "Letter received, damaged but I trust very seriously ascertain if you can from trustworthy sources what probabilities are and write me so that it will be received to-morrow morning. Confidential." On November 30, 1890, Auditor General Thomas McCamant wrote to him: "Your letter received and I am much obliged for your kindness." On December 2, 1890, William Livsey wrote to John Bardsley: "Your note was duly received. I hope Keystone will pull through."

On December 24, 1890, John Bardsley drew a check of the same kind for \$600. On December 26, 1890, William Livsey wrote him: "Your kind note received." On December 21, 1890, Thomas McCamant telegraphed to John Bardsley: "Cannot leave to-day, but will be at your office to-morrow at 12 o'clock M."

On December 24, 1889, Bardsley drew a check "to the order of myself for W. L., \$500;" on the stub of this check—not torn out of the check book—appears the following: "William Livsey, for his kindness to me during the year." In a letter from William Livsey to John Bardsley, dated December 31, 1889, he wrote: "I received your letter in Pittsburgh on Saturday last when I arrived home. Thanks for your kindly consideration."

On February 28, 1891, a check was drawn by John Bardsley for \$1,000, and upon the stub of it he wrote: "For L. & Mc., January, February, \$1,000."

On March 17, 1891, John Bardsley drew a check for \$375; and on the stub wrote: "Cash; half of \$750 Mc. \$375."

On May 31, 1889, Auditor General McCamant approved the bills of the Philadelphia newspapers for advertising the mercantile appraisements for \$40,722.60. On the same day, according to John Bardsley's memoranda, he paid them and received \$16,289.04 from the newspapers in which he and Auditor General Thomas McCamant had conjointly directed the mercantile appraisements to be advertised. Of these bribes John Bardsley's books represent that he paid \$2,000 to H. N. Graffen, a clerk in the Auditor General's office, and \$7,144.50 to Auditor

General Thomas McCamant. The telegrams show an appointment of Graffen with Bardsley on May 31, 1889.

On June 2, 1890, Auditor General Thomas McCamant approved the bills for the mercantile advertising which he and John Bardsley had conjointly directed to be published in four Philadelphia newspapers. These bills aggregated \$42,865.00 and John Bardsley's memoranda indicate that he got \$17,076 from the publishers of the newspapers and paid \$7,108.85 of it in "large" bills to some person unknown. The stub of the check on which the money was drawn is missing. It was paid on June 11, 1890. In a letter dated June 6, 1890, Auditor General Thomas McCamant made an appointment to meet John Bardsley at the office of the latter at 6.30 p. m., on the 11th of June. On July 6, 1890, Auditor General Thomas McCamant directed John Bardsley to invest \$10,000 in railroad bonds for him.

On April 14, 1891, Auditor General Thomas McCamant approved the bills of the Philadelphia newspapers for advertising the mercantile appraisal lists. They aggregated \$46,656. They were paid by John Bardsley out of the State funds in his hands on April 15, 1891, and on the same day he made a deposit in cash to his own account of \$17,325. On April 18 he drew a check to the order of himself on this fund for \$8,064.40, and made an entry on its stub: "Mc. myself in full, \$8,064.40."

On January 1, 1891, referring to an inquiry by a, then, member of your body as to the amounts paid to the Philadelphia newspapers for this advertising, Auditor General Thomas McCamant wrote to John Bardsley that he had withheld the information desired, and advising Bardsley before going to first consult the newspapers that made the publication.

It further appears that the five mercantile appraisers for Philadelphia, appointed by John Bardsley and Auditor General Thomas McCamant, have, during each of the years in which they have exercised the duties of their office, returned for advertisement and appraisal a large list, of fictitious names, of persons not residing at the places it designated, of persons from whom they had reason to know no taxes could be collected, persons whom they themselves had, from year to year, exempted, and persons against whom, again and again, the Commonwealth, at enormous cost, had brought fruitless suits for collection; so that out of a total appraisal of \$529,799 for retail merchants, brokers, auctioneers and eating houses, billiards, &c., for the years 1889 and 1890, the deductions for uncollectible taxes, half the cost of publishing the list (the other half being charged to the liquor licenses) and the costs paid to magistrates and constables in cases in which the Commonwealth recovered nothing, amounted to nearly \$250,000, or about half the entire assessment. Indeed, for the years 1885-1890, inclusive, the costs of advertising the mercantile appraisal lists in Philadelphia alone were about \$270,000, although the Auditor General testified that no public advantage whatever resulted from this publication, and that it was an utter waste of public moneys. For the same years the cost in delinquent cases aggregated over \$200,000 for which not a dollar was realized to the Commonwealth; and the credits given for uncollectible taxes footed up \$425,000.

The Auditor General in his testimony has admitted, in substance, that no effort has ever been made to determine the accuracy or the honesty of these returns. These enormous bills of expenses have been promptly and unquestionably paid out of the State Treasury. Yet a searching investigation, begun and in progress under the present Treasurer of

been misapplied, misappropriated, embezzled and stolen. The subject of your inquiry should be whether or not the responsibility of this loss lies with the fiscal and auditing officers of the State, or either of them, or of subordinates for whose acts they are officially responsible.

From the testimony of Thomas McCamant, Auditor General, given before the Joint Legislative Investigating Committee, and from an examination of the books of the State department in the Treasurer's office of Philadelphia city and county it appears that nearly all the moneys collected for the Commonwealth, on account of personal property tax are received by the city and county treasurer, and were in particular received by John Bardsley, before the first of August in each year. The act of June 1, 1889 (P. L. 427), under which these taxes are levied, prescribed that the several counties and cities collecting them "on the first Monday of September shall pay into the State Treasury all such sum or sums of money as may then have been collected, and shall on the second Monday of November immediately following, in each year, complete and pay into the said State Treasury the whole amount remaining unpaid, and in default thereof, it shall be the duty of the Auditor General to add ten per cent. penalty to each county or city on all taxes remaining unpaid on the second Monday of November of each year." Of the moneys thus collected for the personal property tax of 1889 by John Bardsley, (the Commonwealth's share, amounting to \$530,044.27), only \$200,000 were paid in before the second Monday of November. The sum of \$124,500 was paid in January, 1890, and the balance, \$170,895, was retained by John Bardsley for his own personal use, until November 26, 1890, more than a year after the same was due and payable to the State, and several months after the collections for the ensuing year were in his hands. This money of the Commonwealth was allowed to remain in his possession and under his control, with the knowledge, consent and permission of the Auditor General and State Treasurer. No settlement of the same was ever transmitted to the Attorney General for collection, no penalties nor interest were charged against John Bardsley and no commissions were abated by reason of his default.

Of the taxes collected for 1890, amounting to \$785,753.27, no portion was paid on the first Monday of September, nor on the second Monday of November following. On December 31, 1890, \$150,000 were remitted to the Commonwealth by John Bardsley, but on the same day this was returned to him by the fiscal and auditing officers of the State. On January 13, 1891, it was again paid into the State Treasury by Bardsley, and after that time no portion of the personal property taxes collected for 1890 were paid into the State Treasury, and \$632,012.11 of public moneys have on this account been embezzled, stolen and lost.

Among the papers of John Bardsley is found a letter from the State Treasurer, Henry K. Boyer, dated Harrisburg, December 22, 1890, in which that official says: "I find I can get along without any money this month from you;" Bardsley having in his hands at that time, of State moneys, \$1,456,758.06, nearly all of which had been collected by him prior to August 1, 1890, and most of which has been embezzled, stolen and lost. In a letter dated November 24, 1890, Auditor General Thomas McCamant advises John Bardsley to "allow the city share of the 1890 tax" to remain in his hands until December.

From the beginning of the year 1891 until he quit his office, John Bardsley collected for the Commonwealth, of personal property taxes, \$289,232.96, no part of which was paid by him into the State Treasury, and most of which has been embezzled, stolen and lost.

Of the license moneys collected by Bardsley for the Commonwealth in 1889, amounting to \$572,339.36, most of which was collected before July 1, 1889, he was permitted to retain in his possession and for his own private use for more than a year, \$237,078.48, for which no settlement against him was ever transmitted to the Attorney General for collection, no interest or penalties were imposed upon him and there was no abatement of his commission for this default.

Of the \$627,604.18 collected by him on the same account for the year 1890, most of which was paid to him before June 1, 1890, he was permitted by the fiscal and auditing authorities to retain the whole amount in his hands until February 27, 1891, when he made a payment of \$100,000 and on March 13, 1891, of \$160,000, leaving a balance of \$367,604.18 of the Commonwealth's money, for all of which he was indebted to it at the time of his imprisonment; and for no part of which, except by the \$120,000.00 bond, is the Commonwealth secured.

During so much of the year 1891 as John Bardsley was in the exercise of the duties of the office of city treasurer, of the moneys he collected for licenses, he claims a credit of the greater part for expenses and fees of mercantile appraisements.

For the tax on municipal loans, payable from the city to the State, John Bardsley received from the city of Philadelphia, on June 26, 1890, \$40,580.40, and on December 30, 1889, \$39,524.77, making a total of \$80,103.17, which he was permitted to retain in his own hands and for his own personal use until September 30, 1890, when it was paid over.

On June 6, 1890, he received from the city of Philadelphia, for like purposes, \$47,444.88, and on December 5, 1890, he received \$43,167.75, making a total of \$90,612.63, all of which he was allowed to retain for his own personal use, all of which he embezzled, and no portion of which was ever paid into the State Treasury.

In all the foregoing instances it appears from the testimony of Messrs. Boyer and McCamant that neither of them made any attempt to enforce any of the provisions of the act of May 7, 1889, to which, as follows, I now direct your particular attention:

AN ACT providing for quarterly returns and payments by county and city officers of moneys received by them for the use of the Commonwealth.

SECTION 1. *Be it enacted, &c.*, That on the first Monday of July next, and quarterly thereafter, it shall be the duty of each county and city officer to render to the Auditor General and State Treasurer, under oath or affirmation, quarterly returns of all moneys received for the use of the Commonwealth, designating, under proper heads, the sources from which said moneys were received, and to pay the said moneys into the State Treasury.

SEC. 2. Any officer who shall refuse or neglect, for the period of thirty days after the same shall become due, to make any return or payment as required by the preceding section of this act, shall forfeit his fees and commissions on the whole amount of money collected during the quarter, and shall be subject to a penalty of ten per centum, which shall be added to the amount of the tax found due.

SEC. 3. The State Treasurer and Auditor General, or either of them, or any agent appointed by them, or either of them, are hereby authorized to examine the books and accounts of any county or city officer who shall refuse or neglect to make any return required by the first section of this act, and upon information obtained from such examination the

Auditor General and State Treasurer shall settle an account against such officer, in the usual manner for the settlement of public accounts, and in the settlement of said accounts shall add, not to exceed fifty per centum, to the amount of the tax to provide for any losses which might otherwise result to the Commonwealth from neglect or refusal of the said officer to furnish the return.

SEC. 4. If the amount of any account settled in accordance with the preceding section of this act, shall not be paid into the State Treasury within fifteen days from the date of said account, then the same shall be placed in the hands of the Attorney General for collection and shall bear interest from fifteen days after date of settlement, at the rate of twelve per centum per annum, and if the Auditor General and State Treasurer, or either of them, shall deem it conducive to the public interest to proceed immediately upon said account against the sureties of the said officer, they shall so instruct the Attorney General, who shall proceed in accordance with such direction received from them, or either of them.

SEC. 5. All acts or parts of acts inconsistent herewith, or which are substantially re-enacted hereby, shall be, and the same are hereby repealed, saving, preserving and excepting unto the Commonwealth, the right to collect any taxes accrued or accruing under said repealed acts or parts of acts.

In his testimony before the Legislative Committee, State Treasurer, Henry K. Boyer admitted that he understood this to be the law, and that quarterly returns and settlements ought to be made. Auditor General Thomas McCamant testified that the law was impracticable, but conceded that under John Bardsley's successor, the present Treasurer of Philadelphia, the law has been strictly complied with, more than a million dollars collected since John Bardsley's resignation having already been paid into the State Treasury in regular monthly payments.

Thomas McCamant, Auditor General of Pennsylvania, testified upon the same occasion that on December 30, 1890, at the instance of John Bardsley, he drew his warrant on the State Treasurer for \$150,000 on account of Philadelphia county's share in the personal property tax of 1890, though at that time no portion of the said tax, except \$150,000, which seems to have been simultaneously paid out of the State Treasury, had been paid to or received by the Commonwealth. Under the 16th section of the act of June 1, 1889, it is prescribed that the one-third of the personal property tax, which is collected and paid into the State Treasury, shall be returned by the State Treasurer to the county paying it, and it has been testified that the board of revenue commissioners decided, that, under this act, the several counties of the Commonwealth were required to pay into the State Treasury the entire amount of the personal property tax and were not entitled to receive any portion of it until after the whole amount had been paid in. Mr. McCamant, Auditor General, testified that, at the time he drew and remitted the warrant for the before mentioned \$150,000 to John Bardsley, there was then owing from him to the Commonwealth \$632,013.11 for tax on personal property, and \$627,604.18 on account of licenses, a total of \$1,259,677.29, all of which facts appear upon the books of the auditing and fiscal departments of the Commonwealth.

At the same session of the Legislative Investigation Committee it was admitted by Henry K. Boyer, State Treasurer, and it appears by the records of the Auditor General's, the State Treasurer's and School Departments—that on December 30, 1890, in accordance with the agreement

and confederation of himself and the cashier of his office, William Livsey, without any solicitation on the part of the municipal or school authorities of Philadelphia, or of any one connected with the School Department of the State, he instructed and procured the Superintendent of Public Instruction to draw warrants on the State Treasurer on account of the schools appropriation for Philadelphia county, amounting to \$420,000; that he had these warrants drawn five months in advance of the ending of the school year, seven months before the warrants for any one of the other twenty-three hundred school districts were drawn, for the express purpose of reducing the balance of money in the general fund below the limit of \$1,550,000, and in order to evade the operation of the law, which required him, on the first day of January, 1891, to apply all sums in the general fund exceeding that amount to the sinking fund for investment in interest-bearing securities.

He further testified that he carried these warrants himself to Philadelphia and delivered them to John Bardsley, before he left Harrisburg, however, he charged them up as cash paid out of the State Treasury before January 1, 1891, in order to prevent the money from being paid into the Sinking Fund. John Bardsley, in his statement in court, testified that he received the warrants on January 3d or 4th. It thus appears that State Treasurer Boyer, himself a commissioner of the Sinking Fund, sworn to obey and charged with the execution of the law regulating the Sinking Fund, deliberately, and for the express purpose of defeating the law, diverted \$420,000 into the hands of John Bardsley.

He further testified that when William Livsey, cashier of the treasury, wrote to John Bardsley, under date of December 23, 1890, that this was done to reduce the general fund, and under date of December 29, that "the warrants must be charged not later than the 31st; also checks drawn to get our account down;" that such letters were written to John Bardsley by the authority of and in pursuance of an agreement made between Henry K. Boyer, State Treasurer, and his cashier, William Livsey, to evade and to defeat the operations of the law regulating the management of the State funds.

It also appears that no portion of this \$420,000, thus improperly and unlawfully paid to John Bardsley by the State Treasurer, was ever paid into the school fund of the city of Philadelphia; but that the whole of it had been stolen and lost; and that no portion of this loss would have been incurred had the warrant been drawn at the regular time, in accordance with law, and at the same date that the school appropriation became effective for the other districts of the State.

I submit this summary of the facts touching the administration of these two departments, admitted and testified to by their chief officers before a joint committee of the Legislature, in order that the Senate may determine the action appropriate in the premises.

I regret the necessity which has arisen to summon you from your homes and accustomed avocations to this extraordinary session. I have awaited the resort to and the exhaustion of the processes of the criminal laws. Their frustration has only intensified the righteous demand of the people that their servants, sworn to obey and enforce the laws and to protect and defend the interests of the Commonwealth, shall answer for neglect of duty or complicity in crime. The responsibility of determining whether reasonable cause exists for the removal of them rests with you. The public expects that it will be met and discharged without regard to partisan advantage or detriment, and with a single concern

for the good name and honor of the Commonwealth. I invoke for your session that deliberation of counsel, joined with prompt dispatch of public business which every requirement of the occasion demands.

ROBT. E. PATTISON.

Laid on the table.

A COMMITTEE ON RULES OF PROCEDURE.

Mr. GOBIN. Mr. President, I offer the following resolution:

WHEREAS, The Senate of Pennsylvania has been convened in extraordinary session by proclamation of the Governor of the Commonwealth given under his hand and the great seal of the State, in the city of Harrisburg, on the 26th day of September, 1891, for the purpose of making diligent inquiry as to whether there is reasonable cause for the removal of certain officers of said Commonwealth, under Article VI, Section four, of the Constitution; and,

Whereas, The Senate desires to take prompt, thorough and searching action in the premises to the full extent of its constitutional power; and

Whereas, There are no known precedents as to the manner of procedure in the matter now before the Senate; therefore be it

Resolved, That the President appoint a committee of five to report to the Senate, at the earliest possible moment, a method and rules of procedure.

The resolution was twice read and,

On the question,

Will the Senate agree to the same?

Mr. ROSS said: Mr. President, I move to so amend the resolution as to strike out the word "five" and insert, in lieu thereof, the word "eleven."

The PRESIDENT. The question is on agreeing to the amendment offered by the Senator from Bucks.

Mr. ROSS. Mr. President, possibly the Senator from Lebanon will accept the amendment without any discussion upon the subject. But it has occurred to me that the number of the committee, as provided for in the resolution offered by the Senator from Lebanon, is too small. The number is but five, and the importance of this committee must at once impress itself upon the minds of the Senators. Its province, as I understand it, will be to formulate a method of procedure under which the investigation for which this Senate has been convened shall proceed. Therefore, the duty of this committee is one of very great importance.

A committee of five is smaller than any one of the standing committees provided for by the rules of this Senate; seven being the minimum number of a standing committee; whereas a number of the more important committees, such for instance as that upon General Judiciary, the Committee on Appropriations, the one on Judiciary Special, the one on Constitutional Reform and the one on Insurance, each consist of eleven members; and the committees on Congressional and Legislative Apportionment consist of thirteen members, according to rule twenty-two of the Rules of the Senate.

I submit to the Senators and to the Senator from Lebanon that the number proposed by that Senator is less than is ordinarily recognized by the rules of this Senate as properly constituting a committee for the discharge of important duties, and it is less than one-half of that which is required for the more important committees of the Senate. Therefore, I have offered this amendment.

Mr. GOBIN. Mr. President, the sole object in limiting the number of the committee to five is to secure greater celerity and more prompt action on its part. It is a well-known fact, one which the Senator from Bucks will admit, that prompt action is more readily secured by a smaller number of people, disposed to go actively to work, than by a larger number equally well disposed, but among whom, by reason of their number, there is less unanimity as to methods and a disposition to indulge in protracted discussion upon preliminaries at a time when progress and action are most essential.

Mr. President, we are confronted at this time by one of the gravest responsibilities, I take it, with which this body ever has contended or possibly ever will have to contend. The occasion is an exceptional one. For the first time in the history of the State of Pennsylvania, one branch of the Legislature is called into existence and is now in session as distinct from and irrespective of the co-ordinate branch of the Legislature. I take it, after listening to the message of the Executive, that it is the desire, the urgent desire of this body to have a prompt, searching, thorough and exhaustive inquiry into all the matters brought before it by the Executive. If, then, there is a necessity for prompt action, I take it that it would be in the direct line of that necessity for us to constitute this committee of such a number as will best enable it to sit down at once and formulate rules for our government in this proceeding.

I appreciate all that has been said by my friend, the Senator from Bucks, but I repeat that the number five has been named solely with the view I have stated. I believe that five Senators can, during the night or within the short time during which the Governor's message is being printed, formulate such rules of procedure as will enable us to go on with this investigation, under the Constitution, and to arrive at a legitimate result. I am afraid that, if its membership is increased to eleven, the committee will be retarded in its work, and much of its time will be consumed in discussing preliminaries, instead of doing what we want it to do at once.

Now, that is all that is involved here; there is nothing in this other than that. I want to say here, in the presence of the Senate (and in saying this I believe I am speaking the sentiment of all of us), that, now that we are here and have been called in executive session, we propose, in this session of the Senate, to make just such inquiry as it is our duty to make and to arrive at just such a result as, under the evidence, we are authorized and justified in arriving at.

Believing that eleven is entirely too large a number, I say to the Senator from Bucks that I do not think we will get the same results from a committee of that size that we would get from a smaller committee. That has been my experience. I think it would be better to have only five, but, however, if the Senator insists upon having an increase and he will say seven, I will, in order to meet the demand from that side, accept an amendment to that effect and agree to have the committee consist of seven. But let it be understood that with every additional member you put on this committee you are simply increasing the risk of delay in the determination of our method of procedure and in the beginning of this investigation; and that is what I am here to prevent.

Mr. ROSS. I appreciate as thoroughly as does the Senator from Lebanon (Mr. Gobin) or any other Senator on this floor not only the important, I may say the solemn, character of the duties which devolve upon this body, but also the urgency for celerity in the performance of

those duties, that they may be discharged with as much expedition as is consonant with their fulfillment in a proper manner. But it is to be borne in mind that we are here, as the Senator has said, without a precedent for our guidance, so far as rules of procedure are concerned. Addresses by the Senate to the Governor have been made upon at least two occasions, one in the case of a judge of Allegheny county and one in the case of a sheriff of Philadelphia; but these cases arose during a general session of the Legislature. The action of the Senate at the present extraordinary session will establish a precedent. It is of course desirable that that precedent may never be involved in a similar occasion, but nevertheless, being a precedent, the rules now adopted will go down as the rules to be observed hereafter in similar cases.

Without desiring to contend over the question at all, Mr. President, I must again express my belief that a committee of eleven would not be too large, and would not be embarrassed in its work by reason of the number of its membership; but, with a view to meet the objection which the Senator has stated, I am willing to make the number nine, if that will be satisfactory; and I do not know but that I will ask to further modify my amendment, in deference to the view expressed by the Senator from Lebanon, and have the amendment read "seven," so that the committee shall consist of seven members, although my own opinion is that the number should be larger. I therefore ask to change my amendment by making it read "seven," instead of "eleven," members.

MR. GOBIN. Well, Mr. President, though still believing that the work could be better or more rapidly done by five members, I will accept the amendment of the Senator from Bucks, making the number of the committee seven.

THE PRESIDENT. The Senator from Lebanon accepts the amendment of the Senator from Bucks as a modification of his resolution. The resolution as modified will now be read.

THE CLERK read as follows: "*Resolved*, That the President appoint a committee of seven to report to the Senate, at the earliest possible moment, a method and rules of procedure."

The President stated the question and a vote being taken, the resolution was adopted without objection. The preamble was then adopted.

Subsequently, the President announced that the committee had been constituted as follows: Messrs. Gobin, Thompson, Grady, Packer, Ross, Sloan and McDonald.

ADJOURNMENT UNTIL TO-MORROW.

MR. LLOYD. Mr. President, inasmuch as it is not likely that there will be much business for us to do until this committee has reported rules to govern our deliberation, I move that, when the Senate adjourns, it will adjourn to meet to-morrow (Wednesday) afternoon, at 3 o'clock.

MR. GRADY seconded the motion.

The motion was agreed to without objection.

PRINTING THE GOVERNOR'S MESSAGE.

MR. GOBIN. Mr. President, I assume that the message of the Governor will be printed without any special action of the Senate in regard to it. It is desirable, of course, that we should get copies of it as soon as possible, that we may be enabled to digest it properly, as it is quite lengthy. Will a special order of the Senate be required?

THE PRESIDENT. The Chair would state for the information of the

Senator from Lebanon, that while the law requires the publication, no time is fixed, so far as the Chair is informed, within which the publication shall be made.

Mr. GOBIN. The fact is that it is impossible, I apprehend, for any Senator to understand fully the array of figures and matters contained therein without referring to some copy of the message, and a printed copy would enable him to go over it. It seems to me that, if provision is not already made in the law to have it printed, there ought to be some provision to that effect made now. I apprehend that it is absolutely necessary that the message should be printed, but I am not sufficiently conversant with the present regulation to be able to say whether the necessary authority already exists.

The PRESIDENT. The Chair is of opinion that, to have the message printed, a resolution of the Senate will be required.

Mr. GOBIN. Then I offer a resolution (and request the Chief Clerk to put the same in writing), that the Public Printer be requested to furnish the Senate with 100 copies of the message of the Governor as speedily as possible.

(Cries of "make it 500.")

Mr. GOBIN. When we get the 100 we can order an additional number.

Mr. PORTER. I move to amend by making the number of copies 500.

Mr. GOBIN. I have no objection to the amendment. All that I want is to get the copies.

The PRESIDENT. The Senator from Lebanon accepts the amendment. The question then is on the resolution as modified, which will be read by the clerk.

The CLERK read as follows :

"*Resolved*, That the Public Printer be requested to furnish the Senate with 500 copies of the message of the Governor at the earliest possible moment, for the use of the Senate."

Mr. RAPSHER. I move to amend by making it 5,000 copies. (Cries of "no, no.")

(NOTE: The amendment apparently was not insisted upon and the Chair proceeded to state the question.)

The resolution was twice read and agreed to.

ADJOURNMENT.

On motion of Mr. Thompson, the Senate (at 1.18 o'clock, P. M.,) adjourned until to-morrow (Wednesday), at 3 o'clock P. M.

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EXTRAORDINARY SESSION OF 1891.

WEDNESDAY, OCTOBER 14, 1891.

The Senate met pursuant to adjournment, at 3 o'clock P. M., the PRESIDENT in the chair.

Messrs. MYLIN and NEWELL, who failed to respond at roll call on the previous day, appeared in their seats.

Mr. MONAGHAN, in attendance on the previous day was absent.

Prayer was offered by Rev. Leroy F. Baker, Chaplain of the Senate.

The PRESIDENT. The Clerk will read the Journal of yesterday.

The CLERK proceeded with the reading of the Journal; and, the same was partly read when,

On motion of Mr. Packer,

The further reading was dispensed with.

RULES OF PROCEDURE.

The PRESIDENT. The Chair is prepared to receive a report from the special committee appointed at the session of yesterday.

Mr. GOBIN. Mr. President, your committee appointed to prepare rules of procedure for the government of the Senate in this extraordinary session beg leave to make the report which I now present.

The PRESIDENT. The report of the committee will be read by the clerk.

The CLERK read as follows:

The committee appointed to prepare a method and rules of procedure for the government of the Senate at the present extraordinary session report as follows:

Rule 1. The investigation shall be conducted by the Senate in open session.

Rule 2. All officers and employes of the Senate shall fill their respective positions as occupied during the regular session of the Senate, and perform such duties as required in regular session, or may be assigned to them.

Rule 3. The Journal shall contain a record of all questions of law or procedure, and the decisions thereon.

Rule 4. All persons charged with misbehavior in office named in the proclamations and message of the Governor of the Commonwealth, shall be notified by the Sergeant-at-Arms that the Senate is duly organized and will proceed at once to make diligent inquiry into the charges preferred against them, and that they may attend in person, or by counsel, and be heard.

All notices to be prepared by the Chief Clerk, and signed by the President *pro tem.* of the Senate, service to be made personally, or by leaving an attested copy thereof at the last known residence.

Rule 5. The Attorney General of the Commonwealth shall be requested by the President *pro tem.* to attend and assist the Senate in conducting the investigations.

Rule 6. All questions involving the admissibility or rejection of testimony and evidence shall be argued by counsel not longer than five minutes on each side; and any Senator, after the ruling of the chair, may object to such ruling, and the questions will then be referred to the Senate, and upon a vote of a majority of the Senators present adverse to the ruling of the chair, the decision shall be reversed.

Rule 7. Absence of counsel or failure of witnesses to appear will constitute no ground of continuance or delay.

The PRESIDENT. What action will the Senate take upon the report of the committee?

Mr. GOBIN. Mr. President, prior to moving, on behalf of the committee, for the adoption of the rules, I wish to express the hope that the Senate will understand that we have endeavored to present, in a simple and concise form, a method of procedure for the government of the Senate. To that extent, we think, we have succeeded in this report.

I now move the adoption of the rules just read.

Mr. Grady seconded the motion.

The President stated the question to be,

"Will the Senate agree to the report of the committee."

A vote being taken, the question was determined in the affirmative without objection.

THE COMMITTEE ON RULES TO BE PERMANENT.

Mr. GRADY. Mr. President, I move that the Committee on Rules continue as a standing committee for this extraordinary session.

Mr. Smith, of Philadelphia, seconded the motion.

Mr. GREEN. Will the gentleman who makes this motion state the purpose of it? If the rules are settled now, are there to be any other rules?

Mr. GRADY. It is to be expected, Mr. President, that from time to time new questions as to the method of procedure may arise or amendments be proposed to the present rules. It follows that these would take their regular course, and, in the first instance, be referred to a committee and then, after being acted upon by that committee, be reported to this body for its action. My motion contemplates that the present Committee on Rules shall be continued for this purpose.

Mr. GOBIN. Mr. President, I may state to the Senate that there are certain questions involved in the present proceedings which will necessarily require consideration at the hands of some committee. Among these are questions (and I may mention them here, because the Senate will have them under consideration later) as to the form of the subpoena, or form of notice, to be given at once to the parties accused and as to the power of the Presiding Officer or other official of the Senate to administer oaths. Matters such as these require consideration by the body, and have already, as far as was possible, been considered by the committee. In their anxiety to enable the Senate to get to work at once without any delay, many of the questions discussed by them during the short period allowed them have necessarily been permitted by the committee to go over without action, and among them are those which I have mentioned. This, therefore, suggests the necessity for the existence of some committee by which action may be taken.

The PRESIDENT stated the question on the motion of the Senator from Philadelphia, (Mr. Grady).

The motion having been twice read, a vote was taken and it was agreed to without objection.

DAILY SESSIONS.

On motion of Mr. Grady, the following resolution was twice read, considered and agreed to, viz:

"Resolved, That until otherwise ordered, the sessions of the Senate shall commence at 10:00 o'clock a. m., of each day."

A CALL FOR THE PRODUCTION OF EVIDENCE.

Mr. GRADY. Mr. President, I offer the following resolution.

The PRESIDENT. It will be read by the clerk for information.

The CLERK read as follows:

WHEREAS, The Governor of the Commonwealth, in the special message to the Senate, of October 13, 1891, states *inter alia*, that Hon. George S. Graham, District Attorney of Philadelphia county, and E. S. Stuart, Mayor of Philadelphia; Francis B. Reeves, Chairman of the Commission appointed by the Executive of the Commonwealth, and Mr. William Van Osten, Chairman of the Committee of Councils, have freely offered to furnish all the evidence in their possession bearing on the subject of the present inquiry; therefore

Resolved, That the president *pro-tem.* of the Senate shall address a communication in writing to each of the persons named by the Governor as being in the possession of evidence bearing on the subject of the misbehavior, in office, of the several officials designated in said message, requesting each of them to be present before the Senate on Monday, October 19, 1891, at 10:00 o'clock a. m., to give testimony and produce all documentary evidence in their custody, relating to this inquiry, and with notice, also, to submit the names of all witnesses having knowledge bearing upon the subject; and all persons whose names are thus furnished shall be forthwith notified to appear and testify fully before the Senate as to their knowledge on said subject.

The resolution was twice read,

And on the question,

Will the Senate agree to the same?

Mr. GRADY said: Mr. President, it is understood, I believe, that this

investigation shall start in to-morrow morning at 10:00 o'clock; provision having been made for the parties concerned, who are at present in Harrisburg, to begin giving their testimony at that time. For the attendance of persons named in the Governor's message, the hour of 10:00 o'clock on Monday has been fixed, because that is the hour named in the resolution already adopted for the daily sessions; and Monday has been suggested because we anticipate that we will have enough to do, between now and Monday, to keep the Senate occupied in the taking of testimony; and by fixing that date, we prevent any delay in the hearing of witnesses brought from a distance.

Mr. PACKER. Mr. President, I do not know about the hour being satisfactory. It would be very inconvenient for some of the Senators to return here on Monday morning at 10:00 o'clock.

I move to amend by substituting, in lieu of the words "10:00 o'clock a. m.," the words "4:00 o'clock p. m."

The President stated the question on the amendment.

Mr. GRADY. If the amendment indicates the prevailing opinion in the Senate, I will be governed by it; but, for one, I would like to see this investigation go on at once, and I know that it is the desire of the Senate that it should proceed rapidly.

Mr. SMITH, of Philadelphia. Mr. President, I hope the gentleman from Philadelphia will accept that amendment. It seems highly improbable that these members of the Senate who reside at points many miles distant from here can possibly get here by 10:00 o'clock on Monday morning. I am sure the Senator from Philadelphia will not hesitate to accept an amendment like that now suggested.

Mr. GRADY. Oh, no. As for myself, I calculated to come here on Sunday evening.

Mr. PACKER. I cannot catch a Sunday train.

Mr. GRADY. Very well. I accept the amendment as a modification of the resolution I have offered.

The PRESIDENT. The amendment having been accepted, the question is on the resolution as modified, making the time "4:00 o'clock p. m."

A vote being here taken,

The resolution was agreed to.

The preamble was then agreed to.

The PRESIDENT. What is the further pleasure of the Senate?

Mr. McDONALD. Mr. President, I understand that a resolution, previously adopted by a vote of the Senate, provides for a session of the Senate at 10:00 o'clock each day. According to that we will be obliged to meet at 10:00 o'clock on Monday morning. I move to reconsider the vote by which that resolution was adopted.

Mr. BROWN. Mr. President, does not the resolution which has just been passed obviate that by providing for a session, on Monday, at 4:00 o'clock?

Mr. SMITH (Philadelphia). The resolution fixing the hour of the daily sessions, provided that it should be operative until otherwise ordered. A subsequent motion, therefore, is all that is necessary to fix a different time of meeting.

Mr. McDONALD. I withdraw my motion.

EXPENSES OF THE SESSION.

Mr. THOMPSON. Mr. President, as no provision is made by law to pay the expense attending the convening of the Senate, either as to the

printing of the proceedings of the Senate, as to furnishing means by which witnesses can be brought in, or as to making a report of the proceedings of the Senate, it seems to me that a committee ought to be appointed to inquire into that matter and see whether or not we can create a means for those purposes, and how we can do it. I do not know that any provision of law exists, and I make this suggestion for fear that there is none, and that, if there is none, we may consider the matter now.

The PRESIDENT. Does the Chair understand the Senator to make a motion?

Mr. THOMPSON. I do not. I am a member of a committee and have not time to serve on a committee to inquire into the matter I have mentioned, but I have simply made the suggestion so that the matter may be acted upon at the instance of some other member.

Mr. McCREARY. Mr. President, I move that a special committee be appointed to make inquiry in accordance with the suggestion of the Senator from Dauphin.

The PRESIDENT. The Senator from Erie moves the appointment of a special committee to ascertain if funds can be legally secured from the State Treasury for the payment of the necessary expenses of serving subpoenas, payment of witnesses and stenographers, the publication of the proceedings and incidental expense necessary to the holding of the special session of the Senate.

The motion was agreed to without objection.

The PRESIDENT. Upon the request of the President *pro tem.* the following are constituted as the committee: Senators McCreary, Robinson and Lloyd.

PRINTING OF THE RULES.

On motion of Mr. Lloyd,

It was ordered that 200 copies of the rules adopted by the Senate be printed for the use of the Senate.

ADJOURNMENT.

Mr. THOMPSON. Mr. President, in order that the committee intrusted with that duty may have time to prepare subpoenas and place them in the hands of the sergeant-at-arms, and to have witnesses subpoenaed and notices served on all the parties, as provided by the rules, I move that the Senate do now adjourn to meet to-morrow (Thursday) morning at ten o'clock.

The motion was agreed to without objection, whereupon the President adjourned the Senate until to-morrow (Thursday) morning at ten o'clock.



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EXTRAORDINARY SESSION OF 1891.

THURSDAY, OCTOBER 15, 1891.

The Senate met at 10:00 o'clock a. m.; the President in the chair.
Prayer was offered by Rev. Leroy F. Baker, Chaplain of the Senate.

ROUTINE BUSINESS.

The Journal of the previous day was here read by the clerk.

The PRESIDENT inquired whether the Committee on Rules had any report to present.

Mr. GOBIN, Chairman of the Committee on Rules, replied: Mr. President, the Committee on Rules have no further report to make in writing, but ask to report verbally that, in compliance with the instructions of the Senate, they have notified the Attorney General of the Commonwealth of the desire of the Senate that he be present at the daily sessions, beginning with this morning, to assist the Senate in conducting the investigations in which it is engaged, and the committee have learned that he is in the city and will be present in the Senate chamber this morning. The committee also have notified the accused, Mr. Thomas McCamant, Auditor General, and Henry K. Boyer, State Treasurer, the counsel for whom have signified their readiness to accept service and to be present to proceed with the investigation this morning.

THE TESTIMONY TAKEN BY THE JOINT LEGISLATIVE COMMITTEE.

Mr. HALL offered the following resolution, which was twice read:

Resolved, That the Governor be requested to lay before the Senate, for its consideration, the testimony taken by the committee appointed to investigate the methods of the State Treasurer's and Auditor General's departments.

The PRESIDENT stated the question to be,

Will the Senate agree to the resolution?

Mr. HALL. Mr. President, the testimony taken before the Committee of the Legislature being upon the same subject on which we have met to investigate, and consisting largely of the sworn statements of the State Treasurer and Auditor General themselves, I offer this resolution simply for the purpose of expediting matters. It seems to me unnecessary for us to go over the entire examination again and that this testimony will answer every purpose; the Senate, of course, having the right to call the accused officials, if it sees fit to examine them further in regard to the matter. But I think that time will be saved if we will take this testimony which, I understand, has been placed in the hands of the Governor by the Committee.

Mr. GOBIN. Mr. President, as I understand the resolution offered by the Senator from Elk, it is a proposition to bring into the Senate evidence taken by the Committee of the two houses of the Legislature. I am not now able to recall the language of the Legislature in passing the resolution creating that Committee, and am unable to say whether the subject matter of its investigation is the same to which the inquiry of this body is to be directed. If the subject matter is the same, if the testimony is relevant, if it is admissible here, then probably we can expediate matters by having that testimony before the Senate, but if some portion of it is irrelevant, or has relation to a different subject, (and, if newspaper accounts in connection therewith are to be relied upon, much of it is of that character, particularly the portions relating to the methods employed by the departments and the questions put to witnesses in various parts of the Commonwealth, as to the appropriate remedy for a correction of existing evils), it is a subject, I take it, with which the Senate, at this time, has nothing to do and upon which it does not desire to enter. If we could apply any method for obliterating those superfluous and irrelevant portions, or if the Senator from Elk (Mr. Hall) would constitute himself a committee to examine this testimony and eliminate from it that which can have no possible bearing upon the subjects under consideration by the Senate, then certainly we would receive this testimony and examine it, and if it was satisfactory or legally admissible under the rules governing this body, we could utilize it and thus expedite the investigation. But if, in order to separate the wheat from the chaff, an examination of the testimony is necessarily involved, then there will be no expedition, but, on the contrary, unnecessary and absolute delay in doing this. The principal witnesses are present here, as I understand it, or are in the vicinity of the Senate Chamber; and I take it that we can call these witnesses, proceed with their examination and ascertain every fact bearing upon the matter presented to us by the Governor in one-half the time that would be consumed by us in going through the great mass of testimony which was presented to and heard before the committee. If that is so, then it will not expedite matters for us to get this testimony, but unquestionably will delay us. By pertinent questions upon the matter directly in controversy, and by confining the inquiry directly to the issue as to the malfeasance in office, without going into any outside matters such as the committee by its resolution, was directed to inquire into, the Senate certainly could accomplish its labors within a fraction of the time which would be required for a thorough examination of the testimony taken by the committee.

Now, if the Senator will amend his resolution so as to provide for the

contingency I suggest, we will favor it; but certainly it is not right and is not in the interest of justice or of a diligent inquiry into this matter to have a great mass of testimony, some of it relevant, some of it partly relevant and some of it wholly irrelevant, thrust into the mill of the Senate; and to require the Senate to grind it out and ascertain what is relevant and proper and what is irrelevant and improper.

I have now before me a copy of the resolution appointing the Joint Committee of Investigation. It is a joint resolution which was approved on the 26th day of January. It creates a committee "to make a thorough investigation of the present methods of conducting the State Treasury." The Senator from Elk will not for a moment entertain an idea that we want to take evidence upon the question of "the present methods," "especially in regard to the present system of the depositing of public funds." I do not think the Senate wants to go into an examination of that matter, "and to report to the Governor of the Commonwealth what evils and abuses exist, as well as to prepare and recommend such legislation as may be necessary to correct the same." The committee is also authorized to investigate the Auditor General's Department and "to take into consideration all matters pertaining to the said department as well as the Treasury Department."

Now, there is an investigation into all the methods prevailing in the two departments of the Government and one that was intended to be as wide and searching as it was possible to place within the scope of any one committee. I take it that the Senate does not propose to enter upon an investigation such as that, but that the sole desire of the Senate is to ascertain whether the officials who are charged with malfeasance in office are guilty of the charge. If they are, the duty of the Senate is plain; if they are not, the duty of the Senate is equally plain; and any attempt or subterfuge to divert the Senate from this plain course of inquiring into the conduct of these officials and to lead it into an investigation of matters which we cannot correct and over which we have no control, certainly can end only in delaying the action of the Senate. In that, we would be following a false issue; we would be entering upon an inquiry that could have no relevancy to the subject under consideration; we would be inviting criticism upon matters with which we are in no way interested, in which the Senate in this investigation is not concerned, and which are directly and absolutely foreign to the purpose for which the session has been called. We cannot remedy the evils which are alleged to exist in the methods of the departments, but we are here to remedy what we find wrong in the official conduct of certain members of the State Government; and if those officials are guilty, this Senate is here for the purpose of removing them. If they are not guilty, this Senate is here for the purpose of doing them justice otherwise. It is here to do justice in any event.

Now, for the reasons I have stated, I am willing to receive this testimony, but not to have it dumped into the Senate, the relevant and the irrelevant portions alike, without any examination as to what portion of it is proper and what improper, and then to be confronted here with that which we do not understand and which we all know, from the language of the resolution creating the committee, which I have read to you, can have no possible connection with the subject matter of our inquiry.

Mr. Ross. Mr. President, I cannot agree with the Senator from Lebanon in the view he has just stated to the Senate as to the testimony taken before the Joint Legislative Committee. The committee

was empowered, by joint resolution, to prosecute certain inquiries, some of which are not germane to the inquiry devolving upon this Senate at this time, as for instance with respect to suggesting legislation to correct existing evils, if such were found to exist under the present law; but, in pursuance of the powers devolving upon it, that committee proceeded to investigate the methods obtaining in the office of the State Treasurer and the office of the Auditor General. Now, it will not do to say that this Senate has nothing to do with the methods that have obtained and prevailed in those respective State offices. The methods pursued there are the evidence of the acts of the respective offices; and we are necessarily led, in this inquiry, into an investigation as to the existing methods practiced in those respective offices. It would be circumscribing the powers of the Senate to an extent to which I do not imagine the Senate will submit, to indicate, in advance of this inquiry, from the mouth of the President *pro tem.* of this Senate, (to whom, under the rules adopted by the Senate, will be referred, in the first instance, questions arising as to the lines of examination) that we are to be limited by any such narrow bounds. I say, as a member of this Senate, it will not do to have it announced, upon the threshold of this examination, that we are to be circumscribed in the manner indicated by the distinguished Senator from Lebanon. Although there may be portions of this testimony taken by the Joint Legislative Committee which are not relevant to the inquiry here, there are most unquestionably large portions of it that bear directly upon the subject before us. Whether the Senate will undertake to use that testimony in pursuing its own investigation I do not know; but that this Senate should have that testimony before it, should be in a position to have recourse to it, and, if it is so desired, to have the testimony read as testimony in this inquiry, I have no doubt. It seems to me that it will be closing our eyes to the light and to the opportunity of obtaining information if we undertake to say that we will not have laid before this body testimony taken by a legal tribunal, under the sanction of an oath, and bearing directly upon the subjects involved in this investigation. The assumption that that testimony shall not come into this Senate Chamber, so that the Senate may, if it so desire, have recourse to it, seems to me to be a most remarkable one. It should be availed of for the very purpose of obtaining information by which a line of examination may be conducted, if not for the purpose of being used as testimony in the inquiry here.

MR. GOBIN. Will the Senator allow himself to be interrogated?

MR. ROSS. Certainly.

MR. GOBIN. Does the Senator say that it is to be made use of only for the information of the Senate and not to be used as testimony in this proceeding?

MR. ROSS. The language of the resolution offered by the Senator from Elk (Mr. Hall), as I recall it, is that the testimony shall be furnished by the Governor for "the consideration" of the Senate.

MR. GOBIN. Then it would be received as testimony.

MR. ROSS. I believe, Mr. President, I am right in my recollection that the word used in the resolution is "consideration." It is to be for "consideration" as—what? As testimony; and to be made use of for purposes of information, so that individual Senators may have it here and may have an opportunity of going into it and acquainting themselves with the facts which they conceive to be necessary for their infor-

mation. The resolution does not undertake to say what the "consideration" of the Senate shall be, but it brings into this body that means of information. I say here, in my place, as a Senator of this State, that we are entitled to have the information contained in the testimony taken by the Joint Legislative Committee, for such consideration as this body may hereafter deem proper to accord to it; and that to vote down the resolution of the Senator from Elk is to exclude from the Senate a source of information that may be most valuable in the pursuit of the investigation which now has devolved upon us.

I therefore am in favor of the resolution offered by the Senator from Elk; and I contend that it does not bear the construction given to it by the Senator from Lebanon, that the testimony referred to is necessarily to be used as testimony here, or that, first, before it can be received here the testimony must be sifted and such matters as are not relevant to this inquiry eliminated from it. What individual Senator is to declare, in this body, that certain matters are not relevant to the inquiry here? It is for the Senate itself, for this body, convened for the purpose of this investigation, and for no other power in the Commonwealth, to say what is relevant and what is not relevant to this inquiry. Therefore, Mr. President, it seems to me to be highly important that the notes of this testimony should be in possession of the Chief Clerk, or in the possession of this body, so that we shall give them such consideration as this body may hereafter determine to give them.

Mr. GOBIN. Mr. President, I have listened with much interest to the highly ingenious argument of the Senator from Bucks. That Senator is too good a lawyer to fail to appreciate that every position taken by me, in my remarks, was founded upon considerations of justice and right. He is too fair a man to be willing to ask, even in the humblest court in the land, that a man shall be convicted of criminal acts upon evidence as to the methods of an office. Let it be born in mind that the Senate of Pennsylvania occupies the most peculiar position in which any legislative body in the land has ever been placed; having been assembled under a proclamation which creates an express, distinct and explicit issue, which the Senate is called upon to decide, viz: the guilt or innocence of certain officials. And I will say to the Senator from Bucks and my friends upon the other side, believing, as I do, that I voice the sentiment of the friends around me here, that we are willing to give months—aye months—for justice and right, but not one hour for partisan consideration.

Now, then, I take it that we all want to do right; and I believe there is only one way of doing right, and that is to follow the lines of the precedents, as we can gather them, and do justice before high Heaven not only to the individuals to be tried but to our own conscience and to the State; and, whether as an officer of the Senate or an individual member of it, I propose to do that as long as God lets me stand upon this floor. This body is here for the purpose of trying these officials upon direct and specific charges; the proclamation of the Governor has called us here for the purpose of inquiring into their alleged official misconduct. Why then should the methods that prevail in the departments of the State Treasurer and Auditor General be brought in here? My friend from Bucks would not offer matters of that kind as evidence, were he trying a case before the humblest back-woods justice of the peace. As he proceeded with his argument, he seemed to recognize more clearly that his position was untenable. If it is his desire, as he intimated in the latter part of his remarks, that

the committee's testimony should be presented here simply for our information, we say, "Yes, every particle of it; bring it in, because whatever there is in the land that will throw light on the subject before us we want to have here in the possession of this Senate. But we are not to receive it here as evidence to be considered by this body, without our knowing what there is of it that is proper and what there is that is not proper. If this matter, or any other papers or documents which the Governor may have, or any other evidence that has been taken before a legal tribunal can be of assistance to us in our investigation, let us have it, every particle of it; but let us examine it and see, in the light of our sworn duty, that what we are receiving is something that would be admitted in any court of justice in the land and that we would be justified in admitting it here. This is all that I have to say, Mr. President, and I ask the Chief Clerk to again read the resolution so that we may see whether the construction which the Senator from Bucks places upon it is the proper one.

The CHIEF CLERK here again read the resolution.

Mr. GOBIN. It proposes to have the testimony laid before the Senate for its consideration. I second that resolution.

The PRESIDENT stated the question.

Mr. GOBIN. Mr. President, I withdraw my seconding and move to amend the resolution by striking out the word "consideration" and inserting, in lieu thereof, the word "information."

Mr. HALL. If the distinguished Senator from Lebanon makes a distinction between his consideration and his information, I am perfectly willing to accept the amendment.

Mr. GOBIN. Thank you, sir.

The PRESIDENT. The amendment having been accepted, the question is on the resolution as modified.

A vote being here taken, the resolution was agreed to without objection.

WM. LIVSEY, EX-CASHIER OF STATE TREASURY.

Mr. ROSS offered the following resolution, which was twice read, considered and agreed to:

Resolved, That the Sergeant-at-Arms be instructed to subpoena William Livsey, until recently cashier of the State Treasury and Secretary of the Sinking Fund Commission, to appear as a witness in the investigation now pending in the Senate.

EXPENSES OF THE SESSION.

The PRESIDENT. Is there any additional report from a committee?

Mr. McCREARY. Mr. President, I desire to make a statement on behalf of the committee appointed yesterday, in reference to the payment of the incidental expenses of this extra session. The committee desired to have a consultation with the Attorney General in regard to the legal points involved in the matter, and called upon that official, yesterday afternoon, at his office, but found that he was absent from the city. The committee called again this morning, and had a consultation of a very few moments with him, prior to the meeting of the Senate. We have not had time to put our report in writing, and, therefore, we ask for a little further time in order that we may present our report to the Senate in writing.

The PRESIDENT. The Senator from Erie, on behalf of the committee,

reports progress and asks leave for the committee to be continued. If there are no objections, the leave will be granted. The Chair hears no objection.

THE ANSWERS OF THE STATE TREASURER AND AUDITOR GENERAL.

The PRESIDENT. What is the further pleasure of the Senate?

Mr. GOBIN. Mr. President, I move that the Senate do now proceed to the consideration of the charges preferred by the Governor against Henry K. Boyer, State Treasurer, and Thomas McCamant, Auditor General.

The motion was agreed to without objection.

The PRESIDENT. If the parties are present they are invited with their counsel to take seats at the table reserved for their use. If the Attorney General is present, the Chair will be glad to have him occupy the seat reserved for him.

(Note: The counsel representing Messrs. Boyer and McCamant here came forward and took seats at a table located in front of the clerk's desk. Hon. W. U. Hensel, Attorney General, and James A. Stranahan, Deputy, occupied seats at an adjoining table.)

The PRESIDENT. The Chair understands that the Senate is now in readiness to proceed with the investigation.

Mr. RUFUS E. SHAPLEY, of Philadelphia (of counsel for Thomas McCamant, the Auditor General.) Mr. President, Mr. Henry K. Boyer, the State Treasurer, and Mr. Thomas McCamant, the Auditor General, are present and represented by counsel, viz: Lyman D. Gilbert, Richard C. Dale, Judge J. H. Orvis, John H. Weiss and myself, who represent both of the defendants. With the permission of the Senate, I will read the written answer to the charges against him, which is submitted by Thomas McCamant, Auditor General.

The PRESIDENT. If there is no objection on the part of the Senate, the answer of the accused will be read by the counsel. The Chair hears no objection.

Mr. SHAPLEY, of counsel for Thomas McCamant, the Auditor General, here read to the Senate the following answer by Mr. McCamant to the allegations contained in the Governor's message of October 13, 1891, viz:

ANSWER OF THOMAS MCCAMANT, AUDITOR GENERAL, TO CHARGES OF OFFICIAL MISCONDUCT REFERRED IN THE GOVERNOR'S MESSAGE TO THE SENATE IN EXTRAORDINARY SESSION CONVENED, OCTOBER 15, 1891.

To the Senate of the Commonwealth of Pennsylvania, convened in extraordinary session by the proclamation of his Excellency the Governor of said Commonwealth, dated the twenty-sixth day of September, A. D. 1891:

Respectfully protesting that his Excellency the Governor had no authority, under the constitution and laws of this commonwealth, for convening your honorable body in extraordinary session for executive business for or on account of anything in said proclamation contained; and respectfully protesting that your honorable body, having met in pursuance of said proclamation, has no warrant or authority under the constitution and laws of this commonwealth in the present proceeding, for addressing the Governor asking for my removal from the office of Auditor General of this commonwealth, for or on account of anything in said proclamation contained; and expressly denying and reserving to

myself the right at all times hereafter to deny the jurisdiction of this honorable body in the premises, notwithstanding this answer or anything herein contained, I respectfully make answer to the charges of official misbehavior alleged against me in the said proclamation, and in the message of his Excellency the Governor, which was transmitted to your honorable body convened and sitting as aforesaid, on the thirteenth day of October, A. D. 1891, as follows:

I. I allege that I was lawfully elected by the people of this commonwealth to said office, at an election duly held on the sixth day of November, A. D. 1888, in pursuance of the constitution and laws of this commonwealth, for the term of three years beginning on the . . . day of May, A. D. 1889, and ending on the . . . day of May, A. D. 1892, and that I was duly commissioned according to law by his Excellency the Governor of this Commonwealth to exercise and perform the duties of said office during said term.

II. I allege that, by virtue of said authority, I am now, and have been ever since the said . . . day of May, A. D. 1889, duly, rightfully and lawfully exercising and performing the duties of said office, that I am not now and never have been in any way whatever incapacitated from properly exercising and discharging all the duties of said office; that I have never been convicted of, and have never been guilty of any crime or misdemeanor in office, and that no cause whatever exists which would in law justify my impeachment or my removal from office in any form of proceeding authorized by the constitution and laws of this commonwealth, and that no "reasonable cause" within the meaning of section four of article VI of said constitution exists which would authorize my removal in the present proceedings, or in the manner provided for in said section of said article.

III. I expressly deny each and every charge of official misbehavior in said proclamation and said message alleged against me whether the same be stated expressly or by way of inference, argument or suggestion; and I also expressly deny each and every statement, matter and thing in said proclamation and message contained, in so far as it, they or any of them, are set forth as sufficient grounds to warrant the conclusion that I have ever been in any way guilty of any misconduct, misbehavior or mal-administration in my said office, or of any act which would be sufficient cause in law for my removal from said office in any form of proceeding authorized by the constitution and laws of this commonwealth; and in this connection I expressly aver that I have always discharged all the duties of my said office honestly and to the best of my ability; and I also further expressly aver that I have always acted, in all my official acts, in obedience to the laws of this commonwealth as I understood them and as far as it was possible so to do, in view of the defective condition of existing laws relative to state taxes and the collection and return of the same; and that all of my said official acts in reference to the settlement of accounts against county treasurers, and especially against the late treasurer of Philadelphia county, which acts are now alleged in said proclamation and in said message to have been illegal, were in conformity with the law as it was understood and interpreted by me and my predecessors for many years back, and was in conformity with the long-established usage of the Auditor General's department, which said usage, although it must be presumed to have been for many years well known to the Executive department, which is specially charged by the constitution to "take care that the laws be faithfully executed," has never before been made the subject of Executive animadversion, during

the administration of my predecessors, or during my own administration, until many months after it was made publicly known, that John Bardsley, ex-treasurer of Philadelphia, had been unlawfully using public money.

IV. I am advised by my counsel, and I therefore respectfully suggest that, as the said charges preferred against me in said Executive proclamation and in said message are exclusively charges of official crimes and misdemeanors, based upon alleged acts of official misconduct, I would be clearly liable, if said charges can be proved to be true, to impeachment therefor, in the manner prescribed by the constitution, and would also be clearly liable to prosecution and conviction according to law in the courts of this state, and, upon conviction, to removal from said office in the manner prescribed by the constitution and laws of this state, and that the present attempt to remove me from said office in the present form of proceeding before your honorable body and the chief executive, upon charges of impeachable offenses, is, in substance and effect, an attempt to impeach me in a manner expressly forbidden by the constitution, and to try me before a tribunal for which there is no warrant or authority under the constitution or under any law of this commonwealth. Although section six of the bill of rights expressly declares that "trial by jury shall be as heretofore, and the right remain inviolate," and although section nine of said bill of rights further declares that "in all criminal prosecutions the accused hath a right * * * to have compulsory process for obtaining witnesses in his favor, * * * a speedy public trial by an impartial jury of his vicinage," and that "he cannot be compelled to give evidence against himself, nor can he be deprived of his life, liberty or property unless by the judgment of his peers or the law of the land," it is proposed to virtually try me, in this form of proceeding, on criminal charges of alleged misdemeanors in office, in direct violation of the law of the land, without a fair trial by an impartial jury of my vicinage, but before a tribunal not bound by oath or affirmation, which is governed by no legal rules of evidence, and which is essentially a political tribunal called together by the Governor in a time of great political excitement, for the purpose of condemning me, and this when the supreme law of the land provides two certain, ample and clearly constitutional methods for removing me from office if the truth of these charges can be proven against me. And because it is proposed in this summary—and, I respectfully submit, in this unnecessary, unjust and unconstitutional manner, to deprive me of my office and to disgrace me before my fellowmen, I feel compelled to respectfully direct the attention of your honorable body, at this stage of your proceedings, to the question whether you have any constitutional power to address the Governor asking for my removal on account of said charges of impeachable offenses, and to direct your further attention to the following provisions of the constitution and suggestions bearing upon said question:

1. It is expressly provided in section one of article VI of the constitution, that "the House of Representatives shall have the sole power of impeachment."

2. It is expressly provided in section two of said article that "all impeachments shall be tried by the Senate," and that "when sitting for that purpose the senators shall be upon oath or affirmation," and that "no person shall be convicted without the concurrence of two-thirds of the members present."

3. In the present proceeding the Senators are not "upon oath or affirmation," and I am advised that there is no provision in the constitu-

tion or laws of this commonwealth by which they could be lawfully sworn or affirmed to try the question of the truth or falsity of said charges upon the evidence lawfully adduced before them and upon that evidence alone.

Nor, as I am further advised, is there any existing law empowering the Senate in this proceeding to issue a subpoena directed to any witness commanding him to appear before it and testify in this proceeding, or to issue any attachment or other process to compel him to appear and testify in case of his refusing or failing to do so, or to punish him in any way for failing or refusing to appear and testify; nor is there any existing law, as I am advised, which empowers the Senate, or any officer or member thereof, to administer an oath to any witness who may voluntarily appear before it; nor would any prosecution for perjury lie against any witness by reason of his testifying falsely after having been sworn in this proceeding.

4. Section four of article VI further provides that "all officers shall hold their offices on the condition that they behave themselves well while in office, and shall be removed on conviction of misdemeanor in office or of any infamous crime." I am advised that this clause refers only to a conviction in a court of law, before a jury regularly summoned and sworn, upon an indictment duly found, and in a regular trial according to law, and not to a conviction before the Senate sitting as a court of impeachment to try articles of impeachment duly presented by the House of Representatives, or to a proceeding like the present one.

5. The last clause of section four of said article provides that "all officers elected by the people, except Governor, Lieutenant Governor, members of the general assembly and judges of the courts of record learned in the law, shall be removed by the Governor for reasonable cause, after due notice and full hearing, on the address of two-thirds of the Senate." I am advised that the "reasonable cause" for which an elected officer can be removed in this manner under this provision, does not refer to or include a cause amounting to an impeachable or indictable offense, but refers only to causes other than impeachable or indictable offenses, incapacitating him from properly discharging his duties, such as insanity, senility, incompetency, protracted illness or absence, or other similar cause, which would not be sufficient to warrant either his impeachment or indictment, and in any of which cases there would be no mode of removal possible, except for this provision.

I am also advised that the words "for reasonable cause" in this section can only be interpreted to include the impeachable and indictable crimes of misbehavior or malfeasance in office by assuming either that (a) the provision in the last four lines of section four of this article was intended to abrogate entirely the provisions of sections one, two and three of this article, or (b) that the provision was intended to provide a third method for removing all civil officers charged with misdemeanor in office, and by this method to deprive the accused official of all the safeguards guaranteed to him by sections six and nine of the bill of rights, and by sections one, two and three of article VI in which it is found, and (c) that it was the intention to leave it to the discretion of the Governor in every case arising in which an officer elected by the people could be charged, either justly or unjustly, with misdemeanor in office, to determine whether the accused official should be tried according to the law of the land and with the protection of the rights guaranteed to him by the bill of rights and by sections one, two and three of article VI as aforesaid; or whether said accused official should, with

out his consent and against his protest, be tried by the Governor, on charges preferred by the Governor himself upon informal articles of impeachment under the name of an address not presented by the House Representatives in accordance with section one of said article, but presented by two-thirds of the Senate, the senators in such proceeding not acting under obligation of the oath or affirmation expressly prescribed by section two of said article.

V. For further answer, and referring in detail to the said charges in said proclamation contained, I aver as follows:

The charges against me as contained in the Governor's special message to the Senate are practically the same that were made against me during the past summer. I appeared twice before the councilmanic committee of Philadelphia charged with the investigation of the Bardsley difficulties and made a broad and emphatical denial that I was in any way connected with Mr. Bardsley in the speculations in which he was engaged, or that I had any knowledge, prior to the recent troubles, of the illegal use by him of the moneys of the commonwealth, or that I received any money from him. I have been four or five times before the legislative investigating committee appointed to investigate the business affairs pertaining to the State Treasurer's and Auditor General's departments and made a similar emphatic denial. I had no personal acquaintance with Mr. Bardsley prior to the campaign of 1888. I had for many years preceding this time known him by reputation as an influential and respected member of the councils of Philadelphia. During that campaign I was introduced to him in the office of the board of revision of taxes of Philadelphia. This was the beginning of my personal acquaintance with him. His nomination to the office of city treasurer of Philadelphia was practically unanimous. He was elected by a large majority and every person of whom I made inquiry, spoke of him in the highest terms of commendation. No one ever said a word to me that was derogatory of him prior to the difficulties in which he recently became involved. I always found him to be courteous, pleasant and agreeable, and every time I spoke to him about public business, he expressed a willingness and a desire to do all he could to protect the interests of the commonwealth and city of Philadelphia. I never had the slightest reason to doubt his integrity and I had full confidence in him, although I was on no greater terms of intimacy with him than with others that preceded him during the period I have been connected with the Auditor General's department. The explanations I made before the Philadelphia committee and before the legislative committee are full and complete, and I think should satisfy all fair-minded persons that I was in no way connected with any illegal transactions of Mr. Bardsley. The message gives me no credit whatever for my testimony or the testimony of others in which I am corroborated; this is, to say the least, unfair. During years of 1888 and 1889, Captain William B. Hart, who was the State Treasurer, informed me that he would look after the payments of moneys due the commonwealth from the Philadelphia county officers. The powers of the State Treasurer are as broad, if not broader, than those of the Auditor General, under the acts of assembly relating to the collection of revenues belonging to the commonwealth. When Captain Hart took upon himself to look after the collection of the Philadelphia revenues, I did not interest myself in the matter. I can, however, say that all accounts of every kind between John Bardsley, late treasurer of the city of Philadelphia, and of the county of Philadelphia with the commonwealth for the year 1889 have been closed, settled and paid in

full. I have every reason to believe, at this time, that Mr. Bardsley was furnished with quarterly return blanks, but such quarterly returns have not, in the past, been uniformly made by the treasurers of Philadelphia nor by the treasurers of the other counties of the commonwealth. The records of the Auditor General's department will prove that at times not more than thirty-three per cent. of the county officers have made quarterly returns and payments, and at no time in the past forty years have over fifty per cent. of the county officers made quarterly returns and payments, until the present troubles began. In my report on the finances for 1888, I called attention to the impracticability of enforcing quarterly returns and payments of moneys from county officers, under existing laws, and I drew an act providing that if any county officer charged with the collection of revenues belonging to the commonwealth did not make quarterly returns and payments, he should be punished by fine and imprisonment. I submitted the draft of the bill I prepared to the then State Treasurer, Captain Hart, and he said he would consult several members of the legislature in regard to its probable passage. He reported to me that he had done so, and that the bill was too severe and it could not be passed, and said that the best thing to be done would be to pass an act curing certain defects in the act of 1874 on this subject. No adequate appropriation has ever been made for enforcing quarterly returns and payments. An annual appropriation sufficient to enable the Auditor General to send an agent into every county of the commonwealth to examine the records of county officers should be at least twenty-five thousand dollars, as before one examination could be made another quarterly return would be due. All officers are notified to make their quarterly returns and payments, and all that can be done is done to enforce payments. Defects that exist are chargeable to the system we have in force at present. None of the acts providing for quarterly returns have ever been strictly enforced by any person holding the office of Auditor General since 1857 to the present time, as to examinations, save in cases of death, resignation or where an officer absconds, I am able to prove this by the testimony of D. C. Maurer, who was connected with the Auditor General's department, as clerk and chief clerk from 1859 to 1875, and also by the testimony of Christian W. Myers, the present county clerk in the Auditor General's department. The law for quarterly returns is practically the same at the present time that it was in 1857, and at no time since the passage of the act of 1857 have quarterly returns and payments been uniformly made. It is practically impossible to enforce the same, for the reason that it is not an offense punishable by fine and imprisonment for failure to make quarterly returns and payments by county officers. Yearly settlements are made by the Auditor General and State Treasurer with county treasurers. These settlements in all the counties, except Philadelphia, are based on the report of the county auditors, which we do not receive until after the close of the year. In Philadelphia there has been no preliminary audit of the city treasurer's account since the passage of the consolidation act of 1854, save in one instance, that being the case of John M. Coleman, who was treasurer in 1855 or 1856. The Philadelphia city treasurer's account is settled by the Auditor General on an annual statement made by him showing the collections and disbursements during the year. This statement is generally received about the 1st of March of each succeeding year. It is verified by the mercantile appraiser's list, delinquent lists, liquor license granted, and other data, obtainable by the Auditor Gen-

eral, and a settlement made as required by law. The settlement of the account of Mr. Bardsley with the commonwealth for 1890 was made in the month of March, 1891, and went to the Attorney General's hands within the time prescribed by law. In the spring of 1890, I discovered that Mr. Bardsley was in arrears to the commonwealth. I called on him in the month of June of that year, and he assured me in the most positive manner that as soon as he would get through with the licenses in which he was then engaged, he would render a statement and pay over to the commonwealth all moneys in his hands that belonged to her. In August of that year I again called on him and requested the State Treasurer to do the same. He said that he was not quite through with the licenses, but as soon as he would get through we could rely on him making payment in full. I called to see him again in September, and said to him that the commonwealth must have the moneys then in his hands, and I told him that if he did not pay we would have to resort to compulsory proceedings. After I said this he was disposed to get angry. He remarked that there was no occasion for getting uneasy, as he intended to pay and had already notified the banks in which the money was deposited that he would need the same to make his payments to the commonwealth, and he then commenced to pay, and within the next two months paid on his own account as treasurer and on the account of the city of Philadelphia between five and six hundred thousand dollars. On the 3d of December, 1890, I was in Philadelphia attending a meeting of the tax commission, of which I was president, and I called to see him again, and said to him that he must pay over to the commonwealth the moneys he had in his hands; that the legislature was about to convene and the moneys would be needed to meet appropriations that would be made, and furthermore that we could not allow moneys to remain in his hands any longer. He then remarked that he had just finished making a very large payment to the commonwealth and that the banks in which he had the money deposited were pleading for time, owing to the stringency in the money market, but that he would pay all money in his hands by weekly instalments, until his accounts were closed, and by spring all would be paid. He then commenced to pay, and paid on account of the city for state tax on personal property three hundred thousand dollars, and on account of licenses two hundred and sixty thousand dollars. These payments were made prior to his downfall. The State Treasurer and I have executed laws relating to the collection of the moneys of the commonwealth the same as they have been executed by our predecessors. The statement in the message made by the Governor, where he says that Mr. Bardsley was never called upon or required to render an account as directed by law, does not conform to my testimony or the testimony of the State Treasurer, as both of us called and urged repeatedly the payments of this money. Of the three hundred thousand dollars paid by Mr. Bardsley, one hundred and fifty thousand dollars was returned by warrant drawn in the name of Philadelphia city and county as a partial payment of the one-third of the taxes to which she is entitled under the sixteenth section of the revenue act of 1889, Mr. Bardsley representing to me that it would be a great accommodation to the city of Philadelphia if this money could be returned to her at that time as a partial payment on account of the one-third of the state tax to which she was entitled under the revenue act of 1889. The act of 1856 requires the state taxes on personal property to be paid into the city treasury of Philadelphia. I was under the impression that the moneys collected as state tax on personal

property were held in the city treasury by some ordinance of councils and not available for general purposes, and that the controller gave an order to pay the same over to the commonwealth. The state tax on personal property is retained in the treasury of other counties until it is paid to the commonwealth, and when paid it is done on an order of the county commissioners, and this order is used by the treasurer in the settlement of his accounts with the county. I believe that the same condition of affairs existed as to Philadelphia, with the exception that the controller had to give the order instead of the city commissioners. The money returned to Philadelphia was not misappropriated or embezzled. It is not true that the board of revenue commissioners passed a resolution providing that no portion of this money should be paid over to the counties until all was paid into the state treasury. I am a member of the board of revenue commissioners, and I recall well their action. They passed no resolution at all, but simply held that the counties could not pay two-thirds of this tax and retain the other one-third. The payment made to the city of Philadelphia in December, 1890 was but a partial payment, and there is still due the city \$109,000.00 or more as her further share of the one-third of the state tax on personal property which will have to be returned. No harm came either to the finances of the commonwealth or of the city of Philadelphia by this payment of \$150,000 made to Philadelphia in December, 1890, on the representations made to me by Mr. Bardsley. The state tax on personal property is a charge against the county and not against the county treasurer personally. A different rule prevails as to the state tax on personal property than what prevails as to licenses or tax on municipal loans. With reference to the charge in the Governor's message as to money paid a clerk in the Auditor General's office, as one-half share of the costs of suit against delinquent dealers in merchandise in the city of Philadelphia, I have to say that I was not aware such payment was made, and I did not receive any portion of the moneys paid Graffen, now deceased. He was a clerk in the Auditor General's department in 1889. I did not receive any portion of the moneys paid for costs in 1890. It has been the custom of the Auditor General's department for years past to send all warrants for magistrates and constables' costs to the treasurers of the proper counties. In Philadelphia these warrants have to my knowledge since 1883 been sent to the treasury of said city, and furthermore he was authorized to collect and receive these moneys by powers of the attorney given him by the magistrates and these powers of attorney are accessible and open to the inspection of any one who sees fit to examine them. With reference to the charges that I received portions of the rebate for publishing the mercantile appraisers' list of the city and county of Philadelphia for the years 1889 and 1890, and 1891, I desire to say that I denied most emphatically before all the committees where I was witness, that I ever received any portion of the said rebate. I am corroborated in this statement by Frank B. Bell, in his testimony before the investigating committee, as to the years 1890 and 1891. I denied positively before the legislative investigating committee and before the committee of councils of Philadelphia, that I received any of the money as represented by checks drawn by John Bardsley at certain dates, and gave explanations of my letters written him from time to time. The message gives me no credit whatever for my denial and says the memorandum and check books show payments presumably to me. I deny again most positively that I received any money whatever from John Bardsley. I know nothing of the checks alleged to have been drawn by Mr. Bardsley, and my ex-

planations given to the legislative investigating committee are the explanations I give now. I was the recipient of a number of small courtesies at the hands of John Bardsley as stated to the legislative investigating committee, but no money.

The letter or the telegram of November 29, and my letter of November 30 thanking Bardsley for his kindness, I explained to the legislative investigating committee. My telegram to him on December 21, 1890, stating that I will be at his office to-day or to-morrow was with reference to his account, as I followed him very closely from December 3, 1890, until the collapse came. This I also explained to the legislative investigating committee. I also explained that it was my intention to be in Philadelphia June 11 or 12, 1890, to talk to Mr. Bardsley in regard to his account with the commonwealth, but I was prevented going there on account of an attack of vertigo that I received when in Washington, attending the meeting of the border raid commission, which caused me to return home, and that I was not in Philadelphia for at least ten days thereafter, and I further explained to the committee that the bonds I requested Bardsley to get for me he did not get. That he was absent. With reference to the returns made by the magistrate of costs in the matter of delinquent licenses, I desire to say that the bills of 1889 and 1890 came to me in the same way and in the same form that they have come to the Auditor General's department since 1883, and in the same form they are received from other counties in the commonwealth. These bills were never in any way questioned or impeached, and they were paid by me in the same manner they were always paid, and their payment is in conformity with the act of 1847, regulating payment of costs and expenses against delinquents. I have no interest whatever in the bills. I have nothing whatever to do with the appointment of the magistrates before whom suits for delinquent licenses are instituted. Such appointments are made by the treasurer of the city and county of Philadelphia, as provided for by law, and I deny most positively and earnestly that ever any arrangements as to compensation existed between the city treasurer and magistrates, constables and myself. The statement in the message as to the money misappropriated by Bardsley amounting to \$1,366,378.00 is incorrect. Bardsley paid on his license account before his resignation \$260,000.00. His sureties, John and James Dobson, paid \$120,000.00, and there has recently been recovered for the Merchants' National Bank of Philadelphia the additional sum of \$12,446.46, leaving the amount of license moneys due from Bardsley \$234,000, or thereabouts. As against this balance the commonwealth has a claim on all of the Bardsley assets, consisting of the \$945,000.00, of funds in the Keystone National Bank, Traction stock and other assets of Mr. Bardsley, and any fair dividend received from all these assets, will, in my judgment, pay the commonwealth's claim for license moneys in full. A small dividend would leave only a slight balance due from this source. The balance due for state tax on personal property is charged against the city of Philadelphia and not Mr. Bardsley. There is due the commonwealth on account of the state tax on personal property, the sum of \$372,076.04 for 1890, and also the city of Philadelphia the sum of \$109,937.09, and for this balance suit has been instituted against Philadelphia, and I am satisfied recovery will be had thereon. The State Treasurer's precept for the collection of this tax was not issued until 30th of September, 1890, and the city of Philadelphia had thirty days from that date in which to take an appeal if they saw fit to do so, and when this time expired it

was about the period fixed in the act of 1889 for payment, and neither the Auditor General nor State Treasurer could enforce payment if they were disposed to do so before the expiration of the time fixed for taking appeal.

The tax on municipal loans for 1890 was \$86,030.80. The return of the loans was made by Bardsley within the time prescribed by law, and was also settled and placed in the Attorney General's hands promptly. The law requires an annual return, and this was so stated before the legislative committee by the Attorney General, and the Auditor General has no means of knowing what taxes on loans was paid the city treasurer prior to the time for making the return of the same. The Bardsley license account for 1891 has been paid in full with the exception of about \$1,400.00. At the time of the resignation of Bardsley there had been no meeting of the board of revenue commissioners to call for returns of personal property subject to taxation for state purposes from the different counties of the commonwealth for 1891. In fact the law does not require returns at so early a date, and such returns have only been received within the past few days from the counties of the commonwealth. As yet the board of revenue commissioners have not held their meeting adjusting and fixing the valuation and quota of tax for each county nor has the State Treasurer issued his precept. There is no law and there is no means of knowing on the part of either the Auditor General or State Treasurer what amount if any state tax is paid by a city or county prior to the adjustment of the valuation of the personal property subject to taxation for state purpose, and no responsibility rests on either the Auditor General or State Treasurer in regard to the non-payment of tax on personal property for 1891 by John Bardsley. I have reasons to believe, and feel satisfied that the law will bear me out in the statement that very little loss will occur to the commonwealth from the Bardsley defalcation. I had nothing whatever to do with the issuing of the school warrant for Philadelphia. Mr. Bardsley wanted to know of me when the school warrant would be issued. I called at the State Treasurer's office and obtained the information he wanted and wrote him that it would be taken to him by the State Treasurer. I desire to say, as I have stated before the legislative investigating committee, that I did not know until during the recent troubles with Bardsley, that he was using the school appropriations to pay the commonwealth in 1891. I have endeavored in this explanation to cover all the charges made by His Excellency the Governor against me in his special message to the Senate, and if I have omitted any I will be glad to make any further explanations if I am called to do so.

THOMAS McCAMANT.

The above named Thomas McCamant, being duly sworn, says that the facts set forth in the foregoing answer are true to the best of his knowledge and belief.

Sworn and subscribed before me this 15th day of October, A. D. 1891.

[SEAL.]

EDGAR L. KING,
Notary Public.

Mr. Lyman D. Gilbert, of counsel for Henry K. Boyer, State Treasurer, read to the Senate the following answer to the allegations contained in the Governor's message of October 13, 1891, viz :

ANSWER TO HENRY K. BOYER, STATE TREASURER, TO CHARGES OF OFFICIAL MISCONDUCT PREFERRED IN THE GOVERNOR'S MESSAGE TO THE SENATE IN EXTRAORDINARY SESSION CONVENED, OCTOBER 15, 1891.

To the Honorable the Senate in extraordinary session convened by the proclamation of his Excellency the Governor of the Commonwealth, dated the twenty-sixth day of September, A. D. 1891.

Respectfully protesting that his Excellency the Governor, had no authority under the constitution and laws of this commonwealth to convene your honorable body in extraordinary session for executive business for or on account of anything in said proclamation contained, and respectfully protesting that your honorable body, assembled in pursuance of said proclamation, has no warrant or authority under the constitution and laws of this commonwealth in the present proceeding, to address the Governor asking for my removal from the office of State Treasurer of the Commonwealth for or on account of anything in said proclamation contained, and expressly denying and reserving to myself the right at all times hereafter to deny the jurisdiction of this honorable body in the premises notwithstanding this answer or anything herein contained, I respectfully make the following answer to the charges of official misbehavior alleged against me in the said proclamation and in the message of his Excellency the Governor, which was transmitted to your honorable body:

1. I allege that I was lawfully elected by the qualified voters of this commonwealth to the office of State Treasurer, at an election duly held upon the fifth day of November, 1889, in pursuance of the constitution and laws of this commonwealth for the term of two years beginning on the fifth day of May, 1890, and ending on the first Monday of May, 1892, and that I was duly commissioned according to law by the Governor of the Commonwealth to exercise and perform the duties of said office during said term.

2. I allege that by virtue of said authority I am now, and ever since the said fifth day of May, 1890, have been rightfully and honestly performing the duties of said office; that I am not now and never have been in any way incapacitated from properly exercising and discharging all the duties of said office; that I have never been convicted of, and have never been guilty of, any crime or misdemeanor in office, and that no cause whatever exists which would in law justify my impeachment or my removal from office in any form of proceeding authorized by the constitution and laws of this commonwealth, and that no "reasonable cause," within the meaning of section four of article VI of said constitution exists, which would authorize my removal in the present proceedings, or in the manner provided for in said section of said article.

3. I expressly deny each and every charge of official misbehavior and misconduct in said message alleged or suggested. I expressly deny that I ever, either in person or by letter, or in any way whatever, asked, or received from John Bardsley or from any person representing him, any money, gift or thing of value, or any promise thereof. I expressly deny that I ever knew of, assented or agreed to the use by John Bardsley of any public money for his or my own gain or profit, or for the gain or profit of any other person or persons. I expressly deny that I combined, confederated or agreed with any person or persons to permit John Bardsley, either directly or indirectly, to retain or make use of any public moneys for the gain or profit of myself, himself, or of any other person or persons or for any unlawful use or purpose. I expressly deny

that I now know or ever knew of any person or persons in the service of the Commonwealth of Pennsylvania or of the city of Philadelphia having any relation direct, or indirect, with John Bardsley for the improper detention, use or employment of the moneys belonging either to the State of Pennsylvania or the city of Philadelphia.

I expressly deny that I ever had any correspondence or communication of any kind with John Bardsley or with any person or persons representing him, upon any improper, dishonest or unlawful subject, or for any improper, dishonest or unlawful purpose or object, or that I knew of any such having been had with him by any other person or persons whatsoever upon any such subject or for any such purpose or object.

4. It is true that John Bardsley failed to make the quarterly returns and settlements required by law, but in so doing he followed the practice of his predecessors, which practice had been sanctioned by successive administrations for almost forty years. The act of May 7, 1889, to which reference is made in the message of the Governor, is a substantial re-enactment of the provisions of the seventy-ninth section of the act of May 18, 1857 (P. L. 570), and an examination of the records of the departments of the Auditor General and State Treasurer, and the testimony of those who are familiar with the administration of both of those departments demonstrate and enable me to aver that under the practice of every administration since the passage of the said act of May 18, 1857, the returns were not made by, and accounts were not settled with, the treasurers of the city of Philadelphia during the years within which the state taxes were assessed and collected. The reason for this practice, I am advised, has been the belief that the treasury of the city of Philadelphia was a safe depository for the moneys of the state, in which they might securely remain until they were needed for the public service. I was informed and believe that the moneys belonging to the state were deposited with the other moneys of the city of Philadelphia to the account of John Bardsley as treasurer, and thus were ear-marked as public funds in banks designated by the councils of Philadelphia as depositories of the public moneys. I never had any reason to doubt the correctness of this information or the absolute integrity of John Bardsley, or the perfect security of the public money until the public announcement of the insolvency of John Bardsley, in May, 1891.

5. I admit the payment upon the thirtieth day of December, 1890, of the sum of \$420,000.00 on account of the appropriation for the support of the common schools of the city of Philadelphia. I deny that said payment was unlawfully made, or that it was made without due action upon the part of the school authorities of the city of Philadelphia, and I expressly aver that the same was made upon the certificate made by the Board of Public Education of the First school district of Pennsylvania, signed and sworn to by John M. Campbell, President *pro tem.* of the board, countersigned by James McAlister, Superintendent of Public Schools, and attested by H. W. Hallowell, Secretary. This certificate was dated December 26, 1890, and certified "that the common schools of said district have been kept open and in operation according to the requirements of the school law for the term of twelve months during the school year ending on December, 1890." It further named John Bardsley as the Treasurer of said school district, who became such by virtue of the provisions of the twenty-third section of the act of

February 2, 1854 (P. L. 35). This certificate is on file in the office of the Superintendent of Public Instruction.

Upon receipt of this certificate the Superintendent of Public Instruction drew his warrants for \$420,000.00 which I daily honored, as I had previously advised him I was in condition to do.

Payments of money appropriated for school purposes are made to the city of Philadelphia at a time earlier than that at which they are made to the other school districts of the state. Through all the counties of the state, other than Philadelphia, the school year begins and ends upon the first day of June. The act of March 3, 1818 (P. L. 104), contains the following language:

"WHEREAS, The general provisions of the existing laws towards 'the establishment of schools throughout the state in such manner that the poor may be taught gratis,' and the special provisions made relative to the city and county of Philadelphia, have not proved to be a public benefit within the said city and county, commensurate with the expense incurred by occasion of the same: for remedy whereof,

"SECTION 1. *Be it enacted, &c.*, That the city and county of Philadelphia shall be and hereby are erected into a district, for the purpose of this act, to be denominated 'The First School District of the State of Pennsylvania.'"

Since the passage of that act the school legislation applicable to the city of Philadelphia has been distinct and separate from that applicable to the other counties of the state, and by the thirty-ninth section of the act of February 2, 1854, it is provided: "That the fiscal year of the city of Philadelphia, the board of guardians of the poor of the city of Philadelphia, the board of health, and of the controllers of public schools of the city of Philadelphia, and inspectors of prison shall commence on the first of January in each and every year."

By the fiftieth section of the act of May 1, 1854 (P. L. 609), which is entitled "An act for the regulation and continuance of a system of common schools," which is the general school code of the state, it is provided: "That the act and its supplements now in operation in the city and county of Philadelphia, entitled 'An act to provide for the education of children at the public expense within the city and county of Philadelphia,' are declared to be concurrent with the provisions of this act, and are in no wise to be considered as altered, amended or repealed, except so far that the said city and county shall be entitled to receive their due proportion and share of the annual state appropriation, nor shall anything contained in this act be deemed and taken to alter or in any manner to interfere with the system of public schools now in operation in the said city and county."

This act has never been repealed, and by virtue thereof the First School District has always been recognized as an independent district, entitled to receive its appropriation at the completion of each calendar year. For more than thirty years each general appropriation act has made a specific provision for the payment to the city of Philadelphia of its proportion of the school appropriation, and the same specific instruction is found in the tenth section of the act of May 29, 1889 (P. L. 408). In this latter act the following additional appears: "*Provided also*, That warrants for the above, and all other unpaid appropriations for common school purposes, shall be issued in amounts designated by the State Treasurer, and whenever he shall notify the Superintendent of Public Instruction, in writing, there are sufficient funds in the state treasury to pay the same."

Under these provisions of law, and the uniform and unbroken construction placed thereon by the Superintendents of Common Schools, the Superintendents of Public Instruction and the school authorities of Philadelphia, I am advised and believe that the said payment of the school appropriation to the city of Philadelphia, as made by myself, was made in exact compliance with law, and I expressly declare was not made in pursuance of any corrupt bargain or understanding with any person or persons whatever, or for any dishonest, dishonorable or unlawful object or purpose.

Wherefore, I respectfully submit and declare that I have not been guilty of any official misconduct or misbehavior, and have neither done nor omitted to do any act or thing which would justify my removal from the office of State Treasurer.

HENRY K. BOYER,

Sworn and subscribed before me this 15th day of October, 1891.

[SEAL.]

EDGAR L. KING,
Notary Public

The PRESIDENT. If there is no objection, the answers just read will be filed among the records of the Senate.

PRINTING OF THE ANSWERS.

On motion of Mr. Thompson,

The following resolution was twice read, considered and agreed to.

Resolved, That the answers just read and filed be printed as part of the present proceeding; and that 500 copies of each be printed for the use of the Senate, the Attorney General and the counsel for the respondents.

ROUTINE BUSINESS.

Mr. BROWN offered the following resolution, which was read for information:

Resolved, That the Senate order 100 copies of the evidence taken by the Joint Investigating Committee to be printed for the use of the Senate.

(Cries of "No.")

Mr. BROWN. Mr. President, I desire to make a statement with reference to this matter. The Senate ordered, this morning, that the evidence taken by the committee shall be presented to the Senate. Unless the testimony is printed for our use, I do not see how the resolution, which was passed this morning, for the printing of the testimony of the investigating committee, can become available to us.

(The resolution was here again read.)

Mr. GOBIN. I do not know, of course, how voluminous that evidence is, but if there is a volume of it of a size such as has been reported, it would take a month for the printing of it. Does the Senator from York (Mr. Brown) expect this investigation to be delayed until that volume of testimony has been printed for our information and use? If so, I shall certainly oppose his resolution.

Mr. BROWN. I would say to my friend, the Senator from Lebanon, that I suppose the printing will be necessary. I must confess that I do not not know anything about the size of the volume of the testimony, nor as to how long it will take to print it, nor whether the proceedings of this body will be interrupted in order to await the printing of the

testimony. But we have, this morning, passed a resolution that that evidence shall be admitted here for the information of the members of this Senate, and I do not think we can avail ourselves of it until we have the full copies of it on our tables.

MR. GRADY. Mr. President, I am opposed to this resolution for two reasons—first, because I am reliably informed that the testimony really cannot be printed and placed before this Senate inside of thirty days; second, because I am opposed to an excessive expenditure of money for the purpose. It will cost this State \$1,600 to print this testimony. In view of the uselessness of it, for this proceeding, I am opposed to the adoption of the resolution.

The President here stated the question, and a vote being taken, the resolution was not agreed to.

MR. PACKER offered the following resolution, and upon his motion, the same was twice read, considered and agreed to without objection.

Resolved, That the question of the authority to administer oaths be referred to the Committee on Rules of Procedure.

EXPENSES OF THE SESSION.

MR. MCCREARY. Mr. President, on behalf of the committee appointed to make inquiry with regard to incidental expenses of the session of the Senate, I desire to state that one member of the committee, the Senator from Delaware (Mr. Robinson), is absent this morning, but that the other two members of the committee, the Senator from Cumberland (Mr. Lloyd), and myself, have prepared a report which we now ask leave to present.

THE PRESIDENT. The question will be taken on granting leave to the committee to present its report.

A vote was here taken and leave was granted, whereupon the report of the committee was read by the clerk. It was as follows:

"The committee appointed to make inquiry concerning the payment of certain expenses incidental to the session of the Senate, convened by proclamation of the Governor, beg leave to submit the following report: That they conferred with the Attorney General in relation to the legal questions involved, who stated that the question, as now presented, was not one which required from him an official opinion, yet that he believed the Senate had the power, under the Constitution, to incur said expenses; and that, when properly certified, he would advise the Auditor General to pay the same. The committee would further state that, in their opinion, Section 12, Article IV of the Constitution, giving the Governor power to convene the Senate in extraordinary session, carries with it the right to incur such incidental expenses as are necessary to carry that power into effect without further legislation on that subject.

D. B. MCCREARY,
WM. PENN LLOYD,
Committee."

THE PRESIDENT. The report will be laid on the table.

The Chair understands that the Senate is now prepared to enter upon the investigation.

MR. GOBIN. Mr. President, I desire to offer a resolution in connection with the subject presented by the report just read.

THE PRESIDENT. The resolution will be read for information.

THE CLERK reads as follows:

"WHEREAS, The Attorney General of the Commonwealth has pre-

sented to the Senate an opinion to the effect that the Constitution is self enforcing under certain circumstances, and that provision therein for extraordinary occasions, such as the present session of the Senate, necessarily implies authority for the expenditure of money without an appropriation of the Legislature; therefore be it

Resolved, That the Finance Committee appointed yesterday be instructed to further ascertain the method by which such money can be drawn from the Treasury and to report forthwith."

The resolution was twice read and agreed to without objection.

ROUTINE BUSINESS.

The PRESIDENT. What is the further pleasure of the Senate?

Mr. GRADY. Mr. President, I cannot see that this Senate can proceed further until there is a report from the Committee on Rules respecting the power of the Senate to administer an oath. We had better take a recess.

Mr. GOBIN. With the permission of the Senator from Philadelphia, I suggest that we had better inquire whether the Attorney General (he being now present), has any documentary evidence or evidence of other character which he can here present and which does not require an oral examination of witnesses. If he has such evidence to present, I suggest that we hear that. In the meantime, the Committee on Rules of Procedure can determine the question involved in the suggestion of the Senator from Philadelphia.

The PRESIDENT. The Attorney General will doubtless give the information asked for by the Senator from Lebanon.

Mr. ROSS. I would like to inquire of the Chair whether the Senate has now an official stenographer by whom these proceedings can be taken down for the use of the Senate.

The PRESIDENT. The Chair is not in a position to give the Senator from Bucks definite information on that question, but is informed that there is no contract that will warrant the proceedings being taken down officially. The Chair presumes that the matter is one that ought to be attended to by the committee already appointed on the subject of expenses.

Mr. GOBIN. Mr. President, the statement made by the Chair is correct. Permit me to say that the Committee on Rules endeavored to make provision in that direction, but they were in the position of a certain portion of the people of a great nation, many years ago, who were commanded to make bricks without straw. In other words, they were ordered to employ a stenographer but were without money to pay the stenographer for his services. They were unable to find one with sufficient capital or who had sufficient interest in the prosecution here to impel him to wait for his pay until the next session of the Legislature; and, after conversing with several upon that subject, who preferred to have cash down to any contingent arrangement for an appropriation, the committee abandoned its effort. Now, if the Senate will suggest a means, or if any gentleman is financially so situated at this time that he can put his hand down into his clothes and advance the necessary funds, we can employ the stenographer at once. Unfortunately some of us are not in a position in which we can do that, and that is just the reason why no stenographer is here for the benefit of this body. It is not because of any fault on the part of the committee. The committee have made diligent inquiry, but as they had no money to pay him, and as the stenographer does not propose to serve until he knows whether he

is to be paid for serving and how he is going to get his pay, nothing has been done. The matter of the publication of the proceedings of this body is in exactly the same condition. We ought to have them on our desks on each successive day, but we have no money and no appropriation for that purpose. Some of us dissent most emphatically, as a matter of law, from the opinion expressed by the Attorney General as to the right of any body to draw money from the treasury without an appropriation having been previously made by the Legislature; but, of course, we shall be very happy if the Attorney General will show us the method in which that can be done. It was for that reason that I offered the resolution on that subject. I offered it in the hope that some method might be devised, or some means found, by which we could provide for the necessary expenses of the session.

In connection with this, I may say further that we were ordered to send the Sergeant-at-Arms after witnesses. The Sergeant-at-Arms informed us that he did not have any money to defray his traveling expenses, and, in fact, only a railroad pass; that he did not know how he was going to get out of this town and live elsewhere without having at least three days rations in his haversack; and, as to his expenses for lodging and sleeping quarters, unless he secured them at the expense of friends in Philadelphia or elsewhere, he did not like the outlook for the next few weeks. We passed around the hat yesterday to employ a stenographer for our purposes; but we are not prepared to repeat that operation, as our resources are limited. Speaking for myself, I may say that I do not propose to indulge any longer in this hap-hazard business for the benefit of the Commonwealth, on this occasion.

These suggestions I offer to the Senate as they have occurred to me. If any gentleman will suggest a remedy for our difficulty, we will have a stenographer to serve us within an hour.

NOTE. An interval here elapsed, during which the novel situation in which the Senate was placed was informally discussed in private conferences among members, but no further suggestion was made.

On motion of Mr. GOBIN (at 11:45 o'clock A. M.), a recess until 12 o'clock was ordered.

ROUTINE BUSINESS RESUMED.

Upon the expiration of the recess (at 12:15 o'clock P. M.) the session was continued.

Mr. GOBIN, from the Committee on Rules of Procedure, reported the following additional rule and moved its adoption:

Rule 8. That all oaths or affirmations in this proceeding be administered by one of the judges of the Fourteenth Judicial District.

Mr. GOBIN. These are salaried officers, as the Chair is aware, and no expenditure is contemplated, as it is believed that we can have the services of the judges without any arrangement for their compensation.

On the question,

Will the Senate agree to the report of the committee?

It was determined in the affirmative without objection.

Mr. GOBIN. Mr. President, we are still confronted by the other contingency, the necessity for stenographic and type-writing services and the lack of means to provide for them. We have learned that, if two sessions daily are held, at least two stenographers will be needed, and that to facilitate the prompt transcription of the notes, there should be two type-writers for each stenographer. If three sessions are held daily,

an additional stenographer may be needed. We are not able to employ these stenographers, although we have made every effort that we could make to secure them; and I now propose that the matter be referred to the Committee on Finance, appointed yesterday, and that they be left to wrestle with it awhile. They have been successful in finding the means to provide for our other necessities and they may be equally successful in this direction.

I, therefore, move that the matter of the employment of stenographers be referred to that committee.

Mr. LLOYD. Mr. President, I rise to make an inquiry. What is understood by "the Committee on Finance?" I have not learned of a committee of that character having been appointed.

The PRESIDENT. The Chair would state to the Senator from Cumberland that his understanding is that the committee referred to is the one appointed yesterday to interrogate the Attorney General in regard to the means of defraying the expenses of the session.

Mr. LLOYD. I beg leave to say to the Chair that the language of the resolution constituting the committee to which the Chair refers does not seem to indicate that it was to be a committee on finance at all. The text of the resolution reads, "*Resolved*, That a special committee be appointed to ascertain if funds can be legally secured from the State Treasury for the payment of the necessary expenses of serving subpoenas, payment of witnesses and stenographers, the publication of the proceedings and incidental expenses necessary to the special session of the Senate." That committee have made a report on the legal question involved, setting forth the position of the Attorney General in relation to it, and also the judgment of the committee upon it. That report, when received by the Senate, was laid on the table without any action whatever being taken upon it. We simply reported our views on the Attorney General's position.

Now, it seems to me, that before that committee can be legally authorized to do anything, the Senate must take up that report, consider it and approve it. I repeat that, after having reported in accordance with the resolution creating the committee, our report was simply laid on the table and no action was taken upon it. I think, therefore, that we cannot properly be designated "a committee on finance," and that we cannot be expected to run the finances of this session at all. If the contrary is the case, I have entirely misapprehended the duty imposed upon the committee, and I would feel reluctant to continue to serve on such a committee.

Mr. THOMPSON. The question at issue is as to whether we can secure the services of some person who will report the proceedings of this session of the Senate, make transcripts of the testimony, etc. If the motion of the Senator from Lebanon is adopted, it will simply enlarge the duties assigned to the Committee appointed yesterday, by requiring them to ascertain whether they can secure the services of stenographers who will sit here, during two or three sessions each day, furnish the help requisite for the work of reporting the proceedings and transcribing them by typewriting, and who will take their chance with the next Legislature as to whether or not they will be paid for their services. That is the question, and it does not make much difference as to what duty was assigned to that committee yesterday. What is proposed now, is to have the Senate impose an additional duty on the committee in the belief that if any committee can secure services for nothing they can do it.

Mr. GOBIN. The Senator from Cumberland (Mr. Lloyd) apparently overlooks the fact that an additional resolution was passed this morning to ascertain how the money we are informed we can get, can be secured. Until that is ascertained it would scarcely be advisable for the Senate to adopt the report made by his committee. The law on the subject is all right, we are informed, and we accept the opinion, but we are not entirely convinced that what we have been told may be relied upon with entire confidence. The predicament in which we find ourselves reminds me of that of the prisoner who, after his attorney had endeavored to convince him that the law could not imprison him, remarked, as he looked out through the bars of his cell, "Well, by thunder, I am here all the same." Now, while there may be a law by which we can get the money, and while we are waiting to be convinced to that effect by the law department, what we want is to actually get it, so that we may pay these employes and start the machinery of this investigation. We have been impressed not only by the influential standing of the committee appointed on the subject of the finances, but by their exceedingly industrious example; we know of their persuasive methods, and we know that, if any committee can prevail on stenographers and typewriters to serve us under the circumstances, that committee is the one, and we believe that they will not only devise the methods of payments, but will secure the service we need. That which is proposed is only a part and parcel of the duty originally intended to be assigned to the committee.

Seriously, Mr. President, this work must be performed by some committee, and the one indicated has shown more aptitude for such work than has our Committee on Rules of Procedure, and for that reason I have made the motion. I believe that they can accomplish the object in view, if any committee possibly can.

Mr. GRADY. Mr. President, it is true that at yesterday's session, a special committee was appointed to ascertain if funds could be legally secured from the State Treasury for the payment of the necessary expenses of serving subpoenas, for fees of witnesses, compensation of stenographers, etc. That committee has in charge the matter of the payment of stenographers, and in making this statement I merely quote the language of the resolution creating the committee. The committee has not reported upon that particular branch of the subject assigned them, and for that reason this question confronts the Senate at this time.

Now, we may as well, at the outset, look the facts in the face. There is no money available for this purpose. The State Treasurer cannot pay money out of the State Treasury in defiance of that mandate of the Constitution, which declares that no money shall be paid out of the Treasury without an appropriation to cover it having been made by the Legislature. That, I think, will not be disputed by the law officer of the Commonwealth; and, if it is not, he will realize the fact that the State Treasurer will not pay out any money without a constitutional draft on him for it. The term of office of the State Treasurer will expire prior to a general session of the Legislature, at which a general appropriation bill can be passed, and his successor will require an accounting to him for all moneys that ought to be in the treasury. Consequently, if money has been paid out without warrant of law, the incoming official will insist that any deficit on that account shall be made good instantly, and that the present treasurer shall produce the cash and keep the due bills. No one will blame the newly elected official for insisting upon receiving money for his balances, because, if he would proceed in the right

Here let me add that I want to protest against an unwarranted assumption in which one member of this body has seen fit to indulge, during the discussion to-day; and it is to be regretted that there should be any necessity for a protest of this kind. I deny the right of any man upon this floor to declare that the case of the accused officials has been prejudged by any Senator, and I deny his right to assume that he knows what was in the minds of Senators of this body at a certain time. The statement is one that is as reckless a disregard of any fact upon which it purports to be based as it is possible for me to fitly characterize in parliamentary terms, and I will use none other. I call attention to the remarkable fact that, while the Senator from Elk (Mr. Hall) was unable to voice the sentiment of a single member of the minority sitting near him and with whom he has been daily associated, he states in his place in the Senate broadly that he knew of a determination (and he certainly knows the meaning of that word, and he uses it in the sense of meaning a concert of action) on the part of the majority of this Senate, at the time of which he speaks, to pass upon the question of jurisdiction in a certain way. He is unwarranted in making that assertion, and it is one that is without any foundation in fact. Indeed I may say that, if we were disposed to believe what we have heard imputed to Senators in the way of assertions, we would feel at liberty to complain that the remarks of no Senator here, in reference to this question, have been bandied about the Senate Chamber more frequently than the remarks of the Senator from Elk. But we do not quote those remarks, we do not propose to quote them, for we will not impute to the Senator any motives other than the fairest and purest, and I will not now ascribe to him any other. We are willing that our conduct shall stand the test of comparison with the course the Senator from Elk has pursued. If I had believed that the Senator would assert what had been told me had been asserted by him as to his motive, on the 19th of October, in offering the resolution asserting that the Senate had jurisdiction of the charges against the officials, I would have first gone to him and asked him whether he had said the things which he was reported to have said, whether he believed them to be true, and whether it was honestly his purpose to attain an object totally distinct from and at variance with that which he has stated here to-day to be his object.

Now, I had hoped there would not be any personalities indulged in here, and there is no occasion for any. I had desired, and do desire, to have our positions upon the question, on the other side, placed upon the record as agreeing or disagreeing solely upon the merits involved. If the temptation to be influenced by our partisan sympathies has existed, I take it for granted that each Senator has sought to divest himself of it, as absolutely as he possibly could and that he has approached the consideration of the question here impressed with its solemnity and its great importance—thereby leaving the Senator from Elk, if he thinks the motives of another member are not pure, to constitute himself a critic and to remain such. I decline, however, to permit him to be the judge of my motives or of those of my colleagues without protesting that there is no reason to justify him in assuming that role.

Mr. President, let us dispose of this question in a fair and manly way and let us record our votes upon it as we believe they should be recorded, without imputations upon any member as to his motives; each Senator acting only upon that accountability which is due to himself, to his constituents and to the great public for what he is about to do.

Senator HALL. Mr. President, I believe, so far as my own remarks

were concerned, that no personalities were resorted to. I was not aware that any personalities had been made use of, in this discussion, at any time or by anybody until the remarks of the distinguished Senator from Lebanon which you have just heard were made. That Senator has seen fit to indulge in tart allusions and innuendoes. I do not know what they mean; I am perfectly frank to say to you, sir, that I do not care. My reason for asking this Senate to decide the question of jurisdiction as soon as the plea to the jurisdiction was entered will be sufficiently obvious to the mind of any lawyer, either in this body or out of it. I have as yet to hear the propriety of the introduction of that resolution at that time questioned seriously.

What the remarks were which were brought to the ears of the Senator from Lebanon I do not know. As I have said, my only object in presenting the resolution was to have the question decided promptly and thereby to save the State the expense of continuing the session in case the question should be decided adversely. It seems to me that the wisdom of deciding the question of jurisdiction before going into the hearing of the testimony should have been sufficiently obvious to the mind of any lawyer; and if it is not sufficiently obvious to the Senator from Lebanon, I do not know that I can make it so. I wish to declare here to this body, however, that that was my only object, that I have expressed no other object, and that the innuendoes of the gentleman from Lebanon are entirely unwarranted. I shall make no more explicit reply here, because the gentleman has not been any more explicit in his charges. I do not know what may be his purpose.

Senator ROBINSON. The Senator from Elk, when he says that no reason was given by any member on this side for not voting upon the resolution to decide the question of jurisdiction, on the 19th of October, seems to be somewhat forgetful. His memory is a little at fault. I do not wonder at that, because he is the most persistent absentee that we have in this Chamber. The Senator goes away (I do not know where), and when he comes back he is apparently surcharged with steam. Now, if he will reflect, he will recollect that, on the 19th of October, I stated, as a reason for my not voting to decide the question of jurisdiction at that time, that such a vote would be made use of to put this side of the Chamber in a false position.

The Senator from Elk has also seen fit to state, although he has modified his statement somewhat in his subsequent remarks, that the Senators upon this side of the Chamber have prejudged this question. I might very fairly retaliate by expressing the belief that the Senator from Elk introduced his resolution, on the 19th of October, for purely partisan purposes; for the same purposes for which the whole proceeding here was inaugurated in the executive chamber; for the same purposes of which some premonition was given, at the time of the inauguration, in the clamor of a nomination for the Presidency. The gentleman from Elk introduced his resolution at that time in order to place this side of the Chamber in the position of voting on the question of jurisdiction and refusing to go into an inquiry upon the facts. At that time there was great public agitation upon the question; and, if the majority of this Chamber had then decided that they had no jurisdiction, they would have been placed in a false position. While the gentleman says, and appears to say it very frankly, that he did it for the purpose of saving the Commonwealth from the expense of a prolonged session, I doubt very much whether he did not act—I may say that I believe he did act—from purely political motives in intro-

ducing the resolution in the hope of placing us in a false light or, in the language of the street, putting the Republican side of the Chamber "in a hole." But he did not succeed in doing it. We have waited upon a decision of the question of jurisdiction until all the facts have been traversed; we have waited long; we have waited until we have heard from the people of this Commonwealth. They are higher than the Constitution—for they are the constitution-makers themselves—and they have said, by the verdict at the polls on the 3d of November, they have said—that this whole proceeding, as taken under that clause of the Constitution, was initiated for purely partisan political purposes; and it has fallen still-born. We go away from this Chamber probably to-day, but we go away satisfied, upon this side of the Chamber, that we have no jurisdiction. I believe there are many gentlemen upon the other side of the Chamber, if I can interpret what falls from their lips outside of the Chamber, who would vote with us upon this question of a denial of jurisdiction, and who believe, as many eminent lawyers of that party believe, that we have no jurisdiction here, but they dare not so vote because of party interests and because their votes might be misjudged.

I believe there are on the other side of the Chamber gentlemen, some of whom are lawyers, who agree with us in our position on the question and who believe that, if there has been anything to illuminate and decorate this proceeding from the beginning to the end of it, it has been the clear, the logical, the lucid refutation of their side of the argument, which has been given by the counsel for the respondents. I came here after some examination of the subject, having examined it in 1885 when, with one of the distinguished members of the party of the gentlemen on the other side, an able lawyer and a member of the co-ordinate branch of the Legislature, I made a report upon it; but came here free, in my own mind, to be convinced by any argument that the eminent Attorney General or any of the counsel might make on the question. My judgment has been simply riveted and buttressed upon that which I expressed in 1885, and which I entertained at the beginning of this session, that the Senate has no jurisdiction in the premises. I am frank enough to say, however, before going away from this Chamber, that if we had jurisdiction to go into an inquiry on the facts and an examination of the State Treasurer, my belief is (and it is the belief of many members on the other side) that there is not a scintilla of evidence to convict that officer of any crime whatsoever.

The President here announced the pending question to be,

Will the Senate agree to the resolution offered by the Senator from Lebanon, Mr. Gobin?

The Senate proceeded to vote.

The yeas and nays were required by Mr. Hines and McCreary, and were as follows, viz:

Y E A S .

Messrs. Bates, Becker, Crawford, Critchfield, Crouse, Flinn, Gobin, Grady, Keefer, Lemon, McCreary, Neeb, Newell, Osbourn, Packer, Penrose, Porter, Robbins, Robinson, Showalter, Smith (Philadelphia), Smith (Lancaster), Steel, Thomas, Thompson, Upperman, Williamson and Woods—28.

N A Y S .

Messrs. Brandt, Brown, Dunlap, Green, Hall, Henninger, Hines, Lau

bach, Lloyd, Logan, McDonald, Markley, Meek, Monaghan, Nivin, Rapsber, Rooney, Ross and Sloan—19.

So the question was determined in the affirmative.

The question recurring on the preamble, it was agreed to without objections.

Senator ROSS. Mr. President, I understand, that the subject of jurisdiction has now been disposed of. During the hurry of debate, when the resolution authorizing the Chief Clerk to make certain corrections in the official record was offered, I failed to catch the full import of it. I ask that the resolution be now read.

Senator GOBIN. If the Senator will permit me, I will say to him that the object of the resolution is to place the matter in the hands of the Chief Clerk, so that each Senator may have an opportunity of correcting any errors in the printed report of his remarks. Every Senator will recognize, as he looks over the record, that many typographical errors have occurred in the hasty preparation of the reports of the various discussions. It is contemplated by the resolution to enable the Chief Clerk to communicate with each Senator with a view to having such corrections made, with respect to typographical and other errors, as may be suggested.

Senator ROSS. I was under the impression, not having distinctly heard it read, that it lodged in the Chief Clerk the entire power of correction, but the Senator stated its purport differently from that.

Senator GOBIN. If the resolution does not express that which I have stated, it may be perfected. That is what I desire to express.

The Clerk here read the resolution.

The PRESIDENT. The Chair states, on behalf of the Clerk, that it is the intention to have each Senator revise the printed record of the remarks made by him and to notify the Clerk where there are errors, who will see that corrections are made in accordance with the directions of the member by whom the revision has been made.

Senator BROWN. I ask if it is the understanding that the Chief Clerk is to furnish each Senator with a proof of his remarks in order to better enable him to make the revision.

The PRESIDENT. The Chair understands that the proof, in the form of the printed copies of the record, is now on the desks of the Senators. If Senators desire to make corrections in that record and will make known their desire to the Clerk and indicate the corrections they wish to be made, their desire will be complied with before the new issue of the record is completed.

Senator Packer here offered the following resolution, which was twice read, as follows, viz:

WHEREAS, The Senate has already decided in the case of Henry K. Boyer, State Treasurer, that it has no jurisdiction, under the Constitution, in this proceeding, to inquire into, hear and determine the charges of official misconduct preferred against him, and to address the Governor asking for his removal from his said office of State Treasurer, for or on account of anything in the proclamation or message of the Governor contained;

And whereas, The charges against all the other officers named in said message are also charges of official misconduct, and said ruling of the Senate on the question of jurisdiction in the said case of the said Henry K. Boyer, applies with equal force and effect to the cases of all the other officers named in said message;

And whereas, It having been decided by the Senate in manner aforesaid that it is without jurisdiction in the premises no good end would be accomplished by further protracting this session; therefore,

Resolved, That when the Senate adjourns to-day it shall adjourn *sine die*.

On the question,

Will the Senate agree to the resolution?

The yeas and nays were required by Mr. Hines and Mr. Smith, (Philadelphia), and were as follows, viz:

Y E A S .

Messrs. Bates, Becker, Crawford, Critchfield, Crouse, Flinn, Gobin, Grady, Keefer, Lemon, McCreary, Neeb, Newell, Osbourn, Packer, Penrose, Porter, Robbins, Robinson, Showalter, Smith (Philadelphia), Smith (Lancaster), Steel, Thomas, Thompson, Upperman, Williamson and Woods—28.

N A Y S .

Messrs. Brandt, Brown, Dunlap, Green, Hall, Henninger, Hines, Laubach, Lloyd, Logan, McDonald, Markley, Meek, Monaghan, Nivin, Rapsher, Rooney, Ross and Sloan—19.

So the question was determined in the affirmative.

On motion of Senator McCreary (at 1:40 o'clock P. M.), a recess was ordered until 3:00 o'clock P. M.

SAME DAY—AFTERNOON.

Upon the expiration of the recess (at 3 o'clock P. M.), the Senate again met, the President in the Chair.

Senator Osbourn offered the following resolution, which was twice read and agreed to without objection:

Resolved, That the Chief Clerk have two thousand copies of the resolutions and proceedings thereon in the Senate, in reference to the death of Hon. Thomas M. Mehard, late a member of the Senate from the Forty-seventh Senatorial district, printed and bound in cloth for the use of the Senate.

Senator GOBIN. Mr. President, inasmuch as some diversity of opinion appears to exist as to the sense of the resolution offered this morning, relative to corrections of the record, I move that the vote by which the resolution was agreed to be reconsidered with a view to action that will make it accord with what may be desired by other members.

The motion was agreed to, and the resolution being again before the Senate.

Senator GOBIN said: If the Senator from Bucks will now indicate any amendment he desires to suggest, I will be glad to consent to it.

Senator ROSS. If the Senator will kindly repeat his previous statement as to his understanding of the resolution, I will be better enabled to suggest the modification I desire to make.

Senator GOBIN. My proposition was simply this, to have the Chief Clerk communicate with each Senator and have each Senator correct the proof of his remarks, inasmuch as it must be evident that omissions of

words and typographical errors have occurred. Of course it is not intended that any change shall be made in the text at all, but the idea is simply to have a correction of typographical and grammatical errors that have occurred.

Senator ROSS. I move to amend the resolution by inserting, after the word "corrected," the words, "so far as typographical and grammatical errors are concerned, and that a proof of the said Journal be submitted to each Senator before the copies heretofore ordered are printed."

Senator GOBIN. I agree to that amendment.

Senator GRADY. It occurs to me that to require the Chief Clerk to submit a copy of the Journal to every Senator before the additional copies are printed will be a source of delay. To-day we adjourn and go away; and, in all probability, before the Chief Clerk could communicate with each Senator and receive a copy back again, months and months would elapse, possibly a year, and these copies would become comparatively useless. I think that that part of the amendment had better be omitted, because if the Chief Clerk is obliged to wait until he gets the copy back, one negligent Senator could prevent the copies from being printed.

The PRESIDENT. The Clerk suggests that the resolution be amended so as to read, "that the proof shall be returned within thirty days."

Senator GRADY. I move to amend the resolution to that effect.

The PRESIDENT. If there is no objection, the resolution will be so amended. The Chair hears no objection.

A vote was here taken, when the amendment of Senator ROSS, modified as stated, was adopted, and the resolution, as amended, was agreed to without objection.

Senator Critchfield, from the Committee on Accounts, presented a report detailing the compensation, mileage and stationery of members of the Senate, with an accompanying resolution, which was read as follows:

Resolved, That the President *pro tem.* draw his warrant on the State Treasurer in favor of each of the above named Senators for the sum set opposite the names of each respectively.

The resolution was twice read and agreed to without objection.

(The report of the committee was laid on the table, and will be found annexed to the Journal of the session of this day.)

The President laid before the Senate a communication from the State Librarian, which was read by the clerk as follows:

STATE LIBRARY OF PENNSYLVANIA,
HARRISBURG, PA., November 11, 1891.

Hon. LOUIS A. WATRES,

Lieutenant Governor and President of the Senate:

DEAR SIR: Be kind enough to inform the Senators that this Department will be under many obligations if they will promptly return all books taken from the Library, prior to their leaving the seat of government.

Yours with respect,
WILLIAM H. EGLE,
State Librarian.

Laid on the table.

Senator Herring asked and obtained unanimous consent to have his

vote recorded on the resolution adopted at the the morning session in regard to the jurisdiction of the Senate.

The Clerk accordingly called the name of Senator Herring, who responded by voting "no."

The Private Secretary of His Excellency the Governor of the Commonwealth being introduced, presented communications in writing from the Governor.

The President submitted the communications to the Senate and they were read by the Clerk as follows:

EXECUTIVE CHAMBER,
HARRISBURG, November 10, 1891.

To the Honorable the Senate of Pennsylvania:

GENTLEMEN: In conformity with law, I have the honor hereby to nominate for the advice and consent of the Senate, the following-named persons to be Commissioners of the Board of Public Charities for the term of five years from the dates set opposite their names respectively, viz:

James B. Scott, Pittsburgh, Allegheny county, June 19, 1891.

William B. Gill, Philadelphia, June 19, 1891.

George W. Ryon, Shamokin, Northumberland county, October 8, 1891.

ROBT. E. PATTISON.

EXECUTIVE CHAMBER,
HARRISBURG, November 10, 1891.

To the Honorable the Senate of Pennsylvania:

GENTLEMEN: In conformity with law, I have the honor hereby to nominate for the advice and consent of the Senate, the following-named persons to constitute a board of commissioners to select a site for a Quarantine Station on the Delaware river, term until lawfully determined or annulled from the date set opposite their names respectively, viz:

Henry Leffmann, M. D., Philadelphia, June 24, 1891.

Benjamin Lee, M. D., Philadelphia, June 24, 1891.

Andrew Osbourne, Boothwyn, Delaware county, Pa., June 24, 1891.

John Huggard, Philadelphia, June 24, 1891.

ROBT. E. PATTISON.

EXECUTIVE CHAMBER,
HARRISBURG, November 10, 1891.

To the Honorable the Senate of Pennsylvania:

GENTLEMEN: In conformity with law, I have the honor hereby to nominate for the advice and consent of the Senate, George A. Rush, of Bedford, Bedford county, to be inspector of the work necessary for the erection of an additional cell house and providing additional cells for inmates of the Pennsylvania Industrial Reformatory at Huntingdon, term until lawfully determined or annulled from June 22, 1891.

ROBT. E. PATTISON.

EXECUTIVE CHAMBER,
HARRISBURG, November 10, 1891.

To the Honorable the Senate of Pennsylvania:

GENTLEMEN: In conformity with law, I have the honor hereby to nom-

inate for the advice and consent of the Senate, W. K. Alricks, of Harrisburg, Dauphin county, to be a trustee of the State Lunatic Hospital, at Harrisburg, *vice* H. L. Orth, M. D., resigned, term until April 7, 1893.
ROBT. E. PATTISON.

EXECUTIVE CHAMBER,
HARRISBURG, November 10, 1891.

To the Honorable the Senate of Pennsylvania:

GENTLEMEN: In conformity with law, I have the honor hereby to nominate for the advice and consent of the Senate, J. W. Maloy, of Lansford, Carbon county, *vice* S. H. Hollinger, deceased, to be a trustee of the State Hospital of the Middle Coal Field of Pennsylvania, term until superseded from June 23, 1891.

ROBT. E. PATTISON.

EXECUTIVE CHAMBER,
HARRISBURG, November 10, 1891.

To the Honorable the Senate of Pennsylvania:

GENTLEMEN: In conformity with law, I have the honor hereby to nominate for the advice and consent of the Senate, Richard Vaux, of Philadelphia, to be an Inspector of the State Penitentiary for the Eastern district of Pennsylvania, for the term of two years from October 28, 1891.

ROBT. E. PATTISON.

EXECUTIVE CHAMBER,
HARRISBURG, November 10, 1891.

To the Honorable the Senate of Pennsylvania:

GENTLEMEN: In conformity with law, I have the honor hereby to nominate for the advice and consent of the Senate, Furman Sheppard, of Philadelphia, to be an Inspector of the State Penitentiary for the Eastern district of Pennsylvania, for the term of two years from June 17, 1891.

ROBT. E. PATTISON.

EXECUTIVE CHAMBER,
HARRISBURG, November 10, 1891.

To the Honorable the Senate of Pennsylvania:

GENTLEMEN: In conformity with law, I have the honor hereby to nominate for the advice and consent of the Senate, the following-named persons to the commissioners to select a proper and suitable place for the location of a home for the training in speech of deaf children before they are of school age, and also to erect and construct thereon the necessary buildings. Term—until lawfully determined or annulled from the dates set opposite their names respectively, viz:

S. Edwin Megargee, Philadelphia, June 30, 1891.

Miss Mary S. Garrett, Chester, Delaware county, July 1, 1891.

ROBT. E. PATTISON.

EXECUTIVE CHAMBER,
HARRISBURG, November 10, 1891.

To the Honorable the Senate of Pennsylvania:

GENTLEMEN: In conformity with law, I have the honor hereby to nom-

inate for the advice and consent of the Senate, Robert E. Monaghan, of West Chester, Chester county, to be Commissioner for the Promotion of Uniformity of Legislation in the United States, term until May 8, 1893, *vice* Daniel Agnew, declined.

ROBT. E. PATTISON.

EXECUTIVE CHAMBER,
HARRISBURG, November 10, 1891.

To the Honorable the Senate of Pennsylvania:

GENTLEMEN: In conformity with law, I have the honor hereby to nominate for the advice and consent of the Senate, Heber S. Thompson, of Pottsville, Schuylkill county, *vice* P. W. Shafer, deceased, to be a member of the commission to investigate the waste of coal mining with a view to the utilization of said waste or culm, term until lawfully determined or annulled from October 20, 1891.

ROBT. E. PATTISON.

EXECUTIVE CHAMBER,
HARRISBURG, November 10, 1891.

To the Honorable the Senate of Pennsylvania:

GENTLEMEN: In conformity with law, I have the honor hereby to nominate for the advice and consent of the Senate, Christian K. Ross, of Philadelphia, to be Master Warden of the port of Philadelphia, for the term of three years from June 7, 1891.

ROBT. E. PATTISON.

EXECUTIVE CHAMBER,
HARRISBURG, November 10, 1891.

To the Honorable the Senate of Pennsylvania:

GENTLEMEN: In conformity with law, I have the honor hereby to nominate for the advice and consent of the Senate, Louis Emanuel, of Pittsburgh, to be a member of the State Pharmaceutical Examining Board of the Commonwealth of Pennsylvania, for the term of five years from June 23, 1891.

ROBT. E. PATTISON.

EXECUTIVE CHAMBER,
HARRISBURG, November 10, 1891.

To the Honorable the Senate of Pennsylvania:

GENTLEMEN: In conformity with law, I have the honor hereby to nominate for the advice and consent of the Senate, the following-named persons to be a commission to present before the Congress of the United States the claims of the citizens of the border counties for extraordinary losses sustained during the War of the Rebellion, term until lawfully determined or annulled from the dates set opposite their names respectively, viz:

Thomas B. Kennedy, Chambersburg, June 24, 1891.

Wm. S. Kirkpatrick, Easton, June 24, 1891.

James H. Parker, Big Cove Tannery, June 24, 1891.

B. M. Nead, Harrisburg, June 24, 1891.

T. M. Mahon, Chambersburg, June 24, 1891.

ROBT. E. PATTISON

EXECUTIVE CHAMBER,
HARRISBURG, November 10, 1891.

To the Honorable the Senate of Pennsylvania:

GENTLEMEN: In conformity with law, I have the honor hereby to nominate for the advice and consent of the Senate, the following-named persons to be trustees of the State Hospital for the Insane at Warren, Pennsylvania, for the term of three years from the dates set opposite their names respectively, viz:

James D. Hancock, Franklin, Venango county, June 10, 1891.

Charles C. Shirk, Erie, Erie county, June 10, 1891.

Isaac Ash, Oil City, Venango county, June 10, 1891.

ROBT. E. PATTISON.

EXECUTIVE CHAMBER,
HARRISBURG, November 10, 1891.

To the Honorable, the Senate of Pennsylvania:

GENTLEMEN: In conformity with law, I have the honor hereby to nominate for the advice and consent of the Senate, the following-named persons to be managers of the Pennsylvania Reform School at Morganza, for the term of four years from the dates set opposite their names respectively, viz:

Isidore Coblens, Allegheny, Allegheny county, September 9, 1891.

W. B. Lupton, Pittsburgh, Allegheny county, September 9, 1891.

A. F. Keating, Pittsburgh, Allegheny county, September 9, 1891.

Chas. W. Houston, Pittsburgh, Allegheny county, September 9, 1891.

A. G. Happer, Washington, Washington county, September 9, 1891.

Thos. McKennan, Washington, Washington county, September 9, 1891.

John B. McBride, Canonsburg, Washington county, September 9, 1891.

John M. Buchanan, Beaver, Beaver county, September 9, 1891.

ROBT. E. PATTISON.

EXECUTIVE CHAMBER.
HARRISBURG, PA., November 11, 1891.

To the Honorable the Senate of Pennsylvania:

GENTLEMEN: In conformity with law, I have the honor hereby to nominate for the advice and consent of the Senate, the following-named persons to be members of the State Board of Health and Vital Statistics, for the term of six years from the dates set opposite their names, respectively, viz:

Pemberton Dudley, M. D., Philadelphia, July 1, 1891.

George G. Groff, M. D., Lewisburg, Union county, July 1, 1891.

ROBT. E. PATTISON.

EXECUTIVE CHAMBER,
HARRISBURG, November 10, 1891.

To the Honorable the Senate of Pennsylvania:

GENTLEMEN: In conformity with law, I have the honor hereby to nominate for the advice and consent of the Senate, the following-named persons to be a commission to select and build an asylum for the accommodation of the chronic insane of the State, term until lawfully determined or annulled from the dates set opposite their names respectively, viz:

Wharton Barker, Jenkintown, June 22, 1891.
 John B. Storm, Stroudsburg, June 22, 1891.
 John M. Reynolds, Bedford, June 22, 1891.
 John Curwen, Warren, June 22, 1891.
 Henry M. Dechert, Philadelphia, June 22, 1891.

ROBT. E. PATTISON

EXECUTIVE CHAMBER,
 HARRISBURG, November 10, 1891.

To the Honorable the Senate of Pennsylvania :

GENTLEMEN: In conformity with law, I have the honor hereby to nominate for the advice and consent of the Senate, the following-named persons to be Commissioners of Deeds for the term of five years from the dates set opposite their names, respectively, viz :

George Rigg, Burlington, N. J., June 9, 1891.
 John McClure, New York, N. Y., July 1, 1891.
 Wm. H. Hackett, Portsmouth, N. H., June 15, 1891.
 J. Henry Edmunds, Cape May, N. J., July 8, 1891.
 Chas. Edgar Mills, New York, N. Y., June 26, 1891.
 C. Ewing Patterson, Long Branch, N. J., July 3, 1891.
 Charles S. Bundy, Washington, D. C., July 14, 1891.
 John P. Hutchinson, Bordentown, N. J., July 16, 1891.
 Wm. Johnson, Buffalo, N. Y., July 18, 1891.
 Thos. B. Clifford, New York, N. Y., July 31, 1891.
 Alfred Mackay, New York, N. Y., August 10, 1891.
 James Wade, Cleveland, Ohio, August 10, 1891.
 Evert D. Newman, New York, N. Y., August 21, 1891.
 Newton G. Rogers, Louisville, Ky., September 1, 1891.
 Fred. F. Chambers, New York, N. Y., September 21, 1891.
 H. J. Ritchie, St. Augustine, Florida, September 25, 1891.
 Joseph J. Perkins, Santa Barbara, Cal., October 5, 1891.

ROBT. E. PATTISON.

EXECUTIVE CHAMBER,
 HARRISBURG, November 10, 1891.

To the Honorable the Senate of Pennsylvania :

GENTLEMEN: In conformity with law, I have the honor hereby to nominate for the advice and consent of the Senate, Peter F. Callahan, of New York, N. Y., to be a Commissioner of Deeds for the term of five years from October 23, 1891.

ROBT. E. PATTISON.

EXECUTIVE CHAMBER,
 HARRISBURG, November 10, 1891.

To the Honorable the Senate of the Commonwealth of Pennsylvania :

GENTLEMEN: In conformity with law, I have the honor hereby to nominate for the advice and consent of the Senate, William C. Davidson, to be Commissioner of Deeds, at New York, N. Y., for the term of five years from November 9, 1891.

ROBT. E. PATTISON.

EXECUTIVE CHAMBER,
HARRISBURG, November 10, 1891.

To the Honorable the Senate of the Commonwealth of Pennsylvania :

GENTLEMEN: In conformity with law, I have the honor hereby to nominate for the advice and consent of the Senate, the following-named persons to be justices of the peace until the first Monday in May, 1892, viz :

William Laird Hankey, Wilmerding borough, Allegheny county.
Joshua D. Parish, West ward, Ebensburg, Cambria county.
Leonius H. Wagner, Lower Saucon township, Northampton county.
William J. Gordon, to be alderman for the Third ward of Carbondale in the county of Lackawanna.

ROBT. E. PATTISON.

EXECUTIVE DEPARTMENT,
HARRISBURG, November 10, 1891.

To the Honorable the Senate of Pennsylvania :

GENTLEMEN: In conformity with law, I have the honor hereby to nominate for the advice and consent of the Senate, the following-named persons to be notaries public for the term of four years from the dates set opposite their names respectively, viz :

David J. Kyle, Pittsburgh, Allegheny county, June 9, 1891.
S. H. French, Pittsburgh, Allegheny county, June 20, 1891.
John Patterson, Pittsburgh, Allegheny county, June 22, 1891.
Wm. H. Corbett, Mifflin township, Allegheny county, June 30, 1891.
J. Ledlie Gloninger, Pittsburgh, Allegheny county, August 4, 1891.
George Mars, McKeesport, Allegheny county, July 17, 1891.
H. A. Fisher, Pittsburgh, Allegheny county, August 6, 1891.
Charles K. Thomas, Pittsburgh, Allegheny county, September 3, 1891.
Walter C. Berringer, Pittsburgh, Allegheny county, September 3, 1891.
Thomas W. Aisbitt, Pittsburgh, Allegheny county, September 3, 1891.
Benjamin Goodman, Pittsburgh, Allegheny county, September, 8, 1891.
A. S. DeMartini, Pittsburgh, Allegheny county, September 8, 1891.
Casper H. Werner, Pittsburgh, Allegheny county, September 9, 1891.
Wm. F. Schade, Pittsburgh, Allegheny county, September 11, 1891.
George H. Lepper, Pittsburgh, Allegheny county, September 23, 1891.
J. Pressly Fleming, Pittsburgh, Allegheny county, September 18, 1891.
D. P. Black, Pittsburgh, Allegheny county, September 23, 1891.
W. P. Potter, Pittsburgh, Allegheny county, September 21, 1891.
Chas. E. Brown, Pittsburgh, Allegheny county, September 21, 1891.
Jacob Diehl, Parker City, Armstrong county, August 6, 1891.
Felix P. Kremp, Reading, Berks county, July 19, 1891.
Robert W. Smith, Hollidaysburg, Blair county, July 24, 1891.
Howard B. Calderwood, Tyrone, Blair county, August 15, 1891.
A. B. C. McFarland, Butler, Butler county, August 6, 1891.
John S. Tittle, Johnstown, Cambria county, September 22, 1891.
Laird H. Barber, Mauch Chunk, Carbon county, October 8, 1891.
John M. Dale, Bellefonte, Centre county, September 8, 1891.
Geo. W. Zeigler, Phillipsburg, Centre county, September 18, 1891.
Wm. H. Snyder, Oxford, Chester county, September 20, 1891.
Charles H. Barrett, DuBois, Clearfield county, August 20, 1891.

Frank G. Harris, Clearfield, Clearfield county, October 12, 1891.
John L. Barner, Shippensburg, Cumberland county, August 15, 1891.
J. Wesley Awl, Harrisburg, Dauphin county, September 8, 1891.
Abner Hummel, Hummelstown, Dauphin county, September 26, 1891.
John S. Garrigues, Media, Delaware county, June 30, 1891.
Charles Levis, Upper Darby township, August 6, 1891.
John J. White, Upper Darby township, October 25, 1891.
Walter S. Reitzell, Erie, Erie county, July 16, 1891.
John Kurtz, Connellsville, Fayette county, June 30, 1891.
S. S. Fishburn, Brownsville, Fayette county, September 29, 1891.
H. F. Detwiler, Uniontown, Fayette county, November 3, 1891.
James T. Brennan, Tionesta, Forest county, July 16, 1891.
C. H. Smith, Jefferson, Greene county, June 22, 1891.
James C. Moore, Saltsburg, Indiana county, September 23, 1891.
Fred Meyers, Mifflintown, Juniata county, June 15, 1891.
J. B. M. Todd, Patterson, Juniata county, July 24, 1891.
H. B. Yingling, Allentown, Lehigh county, June 24, 1891.
W. L. Raeder, Wilkes-Barre, Luzerne county, August 6, 1891.
Samuel P. Fenn, Pittston, Luzerne county, August 15, 1891.
Edward Gunster, Jr., Wilkes-Barre, Luzerne county, August 15, 1891.
John D. Hayes, Freeland, Luzerne county, August 25, 1891.
W. S. Parsons, Wilkes-Barre, Luzerne county, September 3, 1891.
David Cottle, Wilkes-Barre, Luzerne county, September 24, 1891.
Matteo Gerod, Hazleton, Luzerne county, October 1, 1891.
Henry W. Watson, Williamsport, Lycoming county, August 6, 1891.
F. A. Van Orsdall, Kane, McKean county, May 29, 1891.
James George, Bradford, McKean county, October 7, 1891.
William Wright, Conshohocken, Montgomery county, August 6, 1891.
Eugene D. Egbert, Norristown, Montgomery county, October 10, 1891.
John J. Corson, Norristown, Montgomery county, October 14, 1891.
Eugene J. Lindsay, Philadelphia, June, 20, 1891.
Lewis R. Dick, Philadelphia, July 12, 1891.
Clarence M. Brown, Philadelphia, June 26, 1891.
Emanuel V. H. Nardi, Philadelphia, June 30, 1891.
Charles W. Boger, Philadelphia, June 30, 1891.
Theodore C. Warner, Philadelphia, July 19, 1891.
J. W. Kenworthy, Jr., Philadelphia, July 14, 1891.
Jay Gates, Philadelphia, July 22, 1891.
Philip D. Neukumet, Philadelphia, July 25, 1891.
Alexander Ramsey, Philadelphia, August 5, 1891.
George W. Brownlee, Philadelphia, August 6, 1891.
David Goodbread, Philadelphia, August 6, 1891.
Charles E. Perkins, Philadelphia, August 13, 1891.
T. Fernley Brooks, Philadelphia, August 25, 1891.
Francis E. Bucher, Philadelphia, September 8, 1891.
James F. Brown, Philadelphia, September 18, 1891.
John K. McCarthy, Philadelphia, September 29, 1891.
Lewis Lawrence Smith, Philadelphia, September 29, 1891.
H. W. Reynolds, Philadelphia, September 22, 1891.
James McCartney, Philadelphia, September 28, 1891.
Robert C. Oliphant, Philadelphia, September 28, 1891.
John P. Gibbs, Philadelphia, October 1, 1891.
D. B. Hampstead, Philadelphia, October 8, 1891.
W. D. Atherton, Genesee township, Potter county, August 6, 1891.
Edward Hummel, Pine Grove, Schuylkill county, July 21, 1891.

Charles M. Kessler, Susquehanna Depot, Susquehanna county, July 14, 1891.

Hiram D. Hancock, Oil City, Venango county, July 14, 1891.

Louis C. Porterfield, Tidioute, Warren county, August 18, 1891.

John F. Amend, Derry, Westmoreland county, August 1, 1891.

John D. McCaleb, Mt. Pleasant, Westmoreland county, September 11, 1891.

William G. Allen, Shrewsbury, York county, June 15, 1891.

Cornelius M. Hindel, Glen Rock, York county, June 16, 1891.

David J. Davis, Scranton, Lackawanna county, August 6, 1891.

ROBT. E. PATTISON.

EXECUTIVE DEPARTMENT,
HARRISBURG, November 10, 1891.

To the Honorable the Senate of Pennsylvania:

GENTLEMEN: In conformity with law, I have the honor hereby to nominate for the advice and consent of the Senate, the following-named persons to be Notaries Public for the term of four years from the dates set opposite their names respectively, viz:

Elliott Rodgers, Pittsburgh, Allegheny county, October 14, 1891.

Albert H. Eames, Pittsburgh, Allegheny county, October 21, 1891.

George W. Brown, Pittsburgh, Allegheny county, October 23, 1891.

Wm. C. Jackson, Union City, Erie county, October 14, 1891.

G. A. Hampson, North East, Erie county, November 1, 1891.

Charles B. Carl, Greencastle, Franklin county, October 23, 1891.

Joseph L. Long, Wilson township, Jefferson county, October 21, 1891.

Henry M. Boyer, Lebanon, Lebanon county, October 17, 1891.

Wm. E. Scarlett, Philadelphia, October 14, 1891.

Philip J. Hofflinger, Philadelphia, October 14, 1891.

Francis H. Garrett, Philadelphia, October 23, 1891.

Clayton W. Peirson, Philadelphia, October 26, 1891.

Samuel Foust, Myersdale, Somerset county, November 3, 1891.

L. C. Powell, California, Washington county, October 23, 1891.

John D. Hall, Parnassus, Westmoreland county, October 21, 1891.

John V. Toner, Latrobe, Westmoreland county, October 23, 1891.

James Towell, Greensburg, Westmoreland county, October 23, 1891.

ROBT. E. PATTISON.

EXECUTIVE CHAMBER,
HARRISBURG, November 10, 1891.

To the Honorable the Senate of the Commonwealth of Pennsylvania:

GENTLEMEN: In conformity with law, I have the honor hereby to nominate for the advice and consent of the Senate, the following-named persons to be Notaries Public for the term of four years:

J. B. Chambers, Pittsburgh, Allegheny county.

E. E. Fulmer, Pittsburgh, Allegheny county.

George H. Moon, Pittsburgh, Allegheny county.

Thomas H. Sankey, Pittsburgh, Allegheny county.

Joseph Moll, Pittsburgh, Allegheny county.

W. J. Burgan, Chartiers, Allegheny county.

George W. Giles, Homestead, Allegheny county.

William Henry, Apollo, Armstrong county.

William Stuckert, Doylestown, Bucks county.

M. Alexander, Altoona, Blair county.

William B. Harvey, Chester, Delaware county.
Elwood M. Ludwick, Honeybrook, Chester county.
Horace Heydt, Mauch Chunk, Carbon county.
John Nowak, Erie, Erie county.
Robert J. Murray, Scranton, Lackawanna county.
Allan A. Herr, Lancaster, Lancaster county.
S. J. Strauss, Wilkes-Barre, Luzerne county.
George A. Wells, Wilkes-Barre, Luzerne county.
Frank H. McCormick, Williamsport, Lycoming county.
John Dolman, Jr., Philadelphia, Philadelphia county.
J. Franklin Moss, Philadelphia, Philadelphia county.
C. Ford Stephens, Philadelphia, Philadelphia county.
S. P. Keller, Monongahela City, Washington county.
Charles W. Campbell, Washington, Washington county.

ROBT. E. PATTISON.

The President stated the question to be, will the Senate advise and consent to the nominations of the Governor?

Senator WOODS. Mr. President, I ask that the names of J. B. M. Todd, of Patterson, Juniata county, and Ferd Meyers, of Mifflintown, Juniata county, nominated for Notaries Public, be laid over.

Senator SHOWALTER. Mr. President, I ask that the name of Jacob Diehl, of Parker City, Armstrong county, be laid over.

The PRESIDENT. If there are no objections, the names mentioned will be omitted from those in the list of Notaries Public now to be passed upon by the Senate. The Chair hears no objection. The clerk will make the entries of the omissions and will proceed with the calling of the roll.

Agreeably to the provisions of the Constitution, the taking of the yeas and nays was proceeded with upon the question, will the Senate advise and consent to the nominations of the Governor, as read by the clerk, except those whose names are omitted?

The vote in detail was as follows:

Y E A S.

Messrs. Bates, Becker, Brandt, Brown, Crawford, Critchfield, Crouse, Dunlap, Gobin, Grady, Hall, Henninger, Herring, Hines, Keefer, Laubach, Lemon, Lloyd, Logan, McCreary, McDonald, Meek, Monaghan, Neeb, Newell, Nivin, Osbourn, Packer, Penrose, Porter, Rapsher, Robbins, Robinson, Rooney, Ross, Showalter, Sloan, Smith (Philadelphia), Smith (Lancaster), Steel, Thomas, Thompson, Upperman, Williamson and Woods—45.

N A Y S.

None.

Two-thirds of all the Senators having voted in the affirmative, the nominations were confirmed.

Senator Becker submitted the following resolution, which was twice read and agreed to without objection:

Resolved, That a committee of three Senators be appointed to wait upon the Governor and inform him that, unless he has other matters to present to it, the Senate is ready to adjourn *sine die*.

Senators Becker, Steel and Henninger were constituted the committee. On motion of Senator Grady (at 3:50 o'clock P. M.), a recess was ordered until 4:30 o'clock P. M.

At 4.30 P. M. the Senate was again called to order, the President *pro tem.* (Mr. Gobin) in the chair.

Senator Becker, from the committee appointed to wait upon the Governor and inform him that the Senate was ready to adjourn, unless he had other matters to lay before it, reported that the Governor had nothing further to communicate to the Senate at this time.

The committee was discharged.

Senator GRADY Mr. President, I move the Senate do now adjourn *sine die.*

Senator Thompson seconded the motion.

The motion was agreed to.

The President *pro tem.* accordingly declared the Senate adjourned *sine die.*

(NOTE.—The following is the report from the Committee on Accounts, submitted at the session of this day, as before stated:)

NAME OF SENATOR.	Salary.	Number of miles circular.	Rate.	Amount of mileage.	Stationery.	Total.
S. D. Bates,	\$500 00	140	.20	\$28 00	\$10 00	\$538 00
Ellwood Becker	500 00	217	.20	43 40	10 00	553 40
Matthias Brant,	500 00	634	.20	126 80	10 00	636 80
Gerard C. Brown,	500 00	56	.20	11 20	10 00	521 20
W. R. Crawford,	500 00	750	.20	150 00	10 00	660 00
N. B. Critchfield,	500 00	440	.20	88 00	10 00	598 00
Jacob Crouse,	500 00	217	.20	43 40	10 00	553 40
William B. Dunlap,	500 00	554	.20	110 80	10 00	620 80
William Flinn,	500 00	500	.20	100 00	10 00	610 00
John C. Grady,	500 00	217	.20	43 40	10 00	553 40
Henry D. Green,	500 00	108	.20	21 60	10 00	531 60
Harry Alvan Hall,	500 00	426	.20	85 20	10 00	595 20
Milton C. Henninger,	500 00	180	.20	36 00	10 00	546 00
Grant Herring,	500 00	160	.20	32 00	10 00	542 00
Wm. H. Hines,	500 00	280	.20	56 00	10 00	566 00
Luther R. Keefer,	500 00	170	.20	34 00	10 00	544 00
E. H. Laubach,	500 00	192	.20	38 40	10 00	548 40
John A. Lemon,	500 00	280	.20	56 00	10 00	566 00
William Penn Lloyd,	500 00	18	.20	3 60	10 00	513 60
S. J. Logan,	500 00	700	.20	140 00	10 00	650 00
D. B. McCreary,	500 00	800	.20	160 00	10 00	670 00
M. E. McDonald,	500 00	380	.20	76 00	10 00	586 00
A. D. Markley,	500 00	244	.20	48 80	10 00	558 80
P. Gray Meek,	500 00	300	.20	60 00	10 00	570 00
Thomas M. Mehard,	500 00	650	.20	130 00	10 00	640 00
S. J. Monaghan,	500 00	220	.20	44 00	10 00	554 00
Amos H. Mylin,	500 00	80	.20	16 00	10 00	526 00
John N. Neeb,	500 00	504	.20	100 80	10 00	610 80
J. K. Newell,	500 00	440	.20	88 00	10 00	598 00
F. A. Osbourn,	500 00	217	.20	43 40	10 00	553 40
Horace B. Packer,	500 00	424	.20	84 80	10 00	594 80
Charles A. Porter,	500 00	217	.20	43 40	10 00	553 40
William M. Rapsber,	500 00	440	.20	88 00	10 00	598 00
E. E. Robbins,	500 00	464	.20	92 80	10 00	602 80
John B. Robinson,	500 00	245	.20	49 00	10 00	559 00
James Rooney,	500 00	462	.20	92 40	10 00	602 40
George Rose,	500 00	286	.20	57 20	10 00	567 20

REPORT OF THE COMMITTEE ON ACCOUNTS—CONTINUED.

NAMES OF SENATORS.	Salary.	Number of miles circular.	Rate.	Amount of mileage.	Stationery.	Total.
J. B. Showalter,	\$500 00	606	.20	\$121 20	\$10 00	\$631 20
H. K. Sloan,	500 00	430	.20	86 00	10 00	596 00
George Handy Smith,	500 00	217	.20	43 40	10 00	553 40
Winfield S. Smith,	500 00	72	.20	14 40	10 00	524 40
Samuel S. Steel,	500 00	510	.20	102 00	10 00	612 00
C. Wesley Thomas,	500 00	217	.20	43 40	10 00	553 40
A. F. Thompson,	500 00	90	.20	18 00	10 00	528 00
John Upperman,	500 00	500	.20	100 00	10 00	610 00
W. McKnight Williamson,	500 00	200	.20	40 00	10 00	550 00
J. M. Woods,	500 00	125	.20	25 00	10 00	535 00
J. P. S. Gobin,	500 00	54	.20	10 80	10 00	520 80
J. P. S. Gobin, President <i>pro tem.</i> ,						30 00
S. E. Nivin,	500 00	164	.20	32 80	10 00	542 80
Boies Penrose,	500 00	217	.20	43 40	10 00	553 40

Resolved, That the President *pro tem.* draw his warrant on the State Treasurer in favor of each of the above named Senators for the sum set opposite their respective names.

REPORT OF THE COMMITTEE ON ACCOUNTS—CONTINUED.

SENATE OFFICERS AND EMPLOYEES.	Number of days.	Rate per day.	Amount of salary.	Number of miles circular.	Rate.	Mileage.	Total.
E. W. Smiley, chief clerk,				750	.10	\$75 00	\$75 00
A. F. Bannon, journal clerk,				621	.10	62 10	62 10
J. M. Carson, reading clerk,				596	.10	59 60	59 60
Herman P. Miller, librarian,10		
Thomas B. Reed, message clerk,	30	\$8 00	\$240 00	200	.10	20 00	260 00
J. H. Myers, transcribing clerk,	30	7 00	210 00	72	.10	7 20	217 20
Isaac Martin, transcribing clerk,	30	7 00	210 00	290	.10	29 00	289 00
Joseph H. Huddel, clerk to President <i>pro tem.</i>	30	7 00	210 00	260	.10	26 00	236 00
Rev. Leroy F. Baker, chaplain,	30	3 00	90 00				90 00
George G. Hutchinson, sergeant-at-arms,	30	7 00	210 00	250	.10	25 00	235 00
Lloyd Hunt, assistant sergeant-at-arms,	30	7 00	210 00	217	.10	21 70	231 70
Hiram G. Brandt, assistant sergeant-at-arms,	30	7 00	210 00	54	.10	5 40	215 40
Robert H. Mehard, postmaster,	30	7 00	210 00	650	.10	65 00	275 00
John K. Parry, doorkeeper,	30	6 00	180 00	217	.10	21 70	201 70
James F. Love, assistant doorkeeper,	30	6 00	180 00	800	.10	80 00	260 00
Irvin Rutledge, assistant doorkeeper,	30	6 00	180 00	342	.10	34 20	214 20
J. W. Houghton, messenger,	30	6 00	180 00	140	.10	14 00	194 00
A. O. Griffith, assistant messenger,	30	6 00	180 00	230	.10	23 00	203 00
J. H. Klingensmith, superintendent of folding room,	30	6 00	180 00	500	.10	50 00	230 00
J. D. Upperman, paster and folder,	30	6 00	180 00	500	.10	50 00	230 00
I. Crowley paster and folder,	30	6 00	180 00	217	.10	21 70	201 70
Geo. M. Knight, paster and folder,	30	6 00	180 00	116	.10	11 60	191 60
Wm. Rae, paster and folder,	30	6 00	180 00	217	.10	21 70	201 70
Andrew Brinder, paster and folder,	30	6 00	180 00	500	.10	50 00	230 00
T. C. Harbison, paster and folder,	30	6 00	180 00	500	.10	50 00	230 00
A. C. Frisbie, watchman,				470	.10	47 00	47 00
J. A. Dunlap, janitor committee rooms,	30	6 00	180 00	550	.10	55 00	235 00
William Blair, janitor coat room,	30	6 00	180 00	217	.10	21 70	201 70
Robert H. Donnalley, janitor basement,	30	6 00	180 00	217	.10	21 70	201 70
Edward J. Adamson, engineer,	30	6 00	180 00	217	.10	21 70	201 70
Joseph C. Gartley, fireman (on floor),	30	6 00	180 00	182	.10	18 20	198 20
Charles B. Houseman, fireman (in cellar),	30	6 00	180 00	217	.10	21 70	201 70
Willie Leary, page,	30	2 00	60 00	217	.10	21 70	81 70
Albert Rice, page,	30	2 00	60 00	217	.10	21 70	81 70
Henry Baker, page,	30	2 00	60 00				60 00
Fisher Russell, page,	30	2 00	60 00	20	.10	2 00	62 00
Thomas Jones, page,	30	2 00	60 00				60 00

REPORT OF THE COMMITTEE ON ACCOUNTS—CONTINUED.

SENATE OFFICERS AND EMPLOYEES.	Number of days.	Rate per day.	Amount of salary.	Number of miles circular.	Rates.	Mileage.	Total.
Mark Stackpole, page,	30	\$2 00	\$60 00	444	.10	\$44 40	\$104 40
Joe Otto Freck, page,	30	2 00	60 00	60 00
George Eppley, page,	30	2 00	60 00	14	.10	1 40	61 40
John Bowen, page,	30	2 00	60 00	424	.10	42 40	102 40
Grant Lynch, page,	30	2 00	60 00	800	.10	80 00	140 00

POINTS OF ORDER OF SPECIAL SESSION OF 1891.

Mr GOBIN. I rise to a point of order—that the amendment is not germane, as its substance is already provided for by the rules. I do not want to delay the Senate, but it seems to me that the motion of the Senator from Philadelphia is not only unfair to the committee on rules, but it is unfair to the Attorney General. He has defined to the Senate his line of procedure, and it seems to me it is a fair line and one that we should accept, so that we may proceed with the business without attempting to take any unfair advantage of him, or to place him in a position which he does not propose to occupy. We have in writing the position he does propose to occupy; I agree with the Senator from Bucks (Mr. Ross), that the Attorney General does not and cannot in any sense of the term, appear here as a prosecuting officer. This is an investigation by the Senate. He has been invited to appear here and assist us. He appears, offers to assist us, and designates, in a courteous manner, the way in which he proposes to assist us.

The amendment of the Senator from Bucks does not, in any sense, place any additional duties upon the Attorney General, nor any duties other than those already imposed upon him by the rules of procedure, and the motion of the Senator from Philadelphia would have absolutely taken the management of the whole proceedings from the Senate and put the Attorney General in a position which he has stated in writing he would not occupy before this body, 66.

Mr. THOMPSON. Mr. President, I rise to the point of order—that the motion of the Senator from Bucks is not amendable in that way, 218.

Senator ROSS. Mr. President, I rise to a point of order—that the call for the yeas and nays has been made and they have been ordered. Although I rose a moment ago to ask permission to withdraw that call, the seconder of it flatly refused to allow the call to be withdrawn. Therefore the yeas and nays have been ordered and nothing is now in order except the calling of the roll.

The PRESIDENT. The Chair sustains the point of order. There is nothing in order, strictly speaking, but the calling of the yeas and nays and the clerk will proceed with the call, unless, by unanimous consent, the taking of the vote is temporarily deferred, 401.

Senator ROSS. Mr. President, the Senate, yesterday morning, adopted an order of business, which became a rule of the body, by which it was provided that the hearing in the case of Henry K. Boyer should continue and that the arguments of counsel should be heard, specifying the order in which they should be heard, and that the disposition of that case should be proceeded with. That became the first order of business of this body. The resolution, which was adopted by a *viva voce* vote, just before the recess, could not change that order, unless passed by a two-thirds vote. No two-thirds vote changing or suspending the previous rule has been given; and therefore I make the point of order that

the resolution just passed, providing that the counsel for the Philadelphia magistrates be now heard by the Senate, was out of order, and did not change or affect the existing order provided for by a resolution from the Senator from Philadelphia (Mr. Penrose) and adopted on yesterday morning.

The PRESIDENT *pro tempore*. The Chair will decide the point of order of the Senator from Bucks. As the Chair understands it, a point of order cannot be raised at this time, after other business has transpired, since the event on which the point of order is based occurred some time since. As the Chair understood it, the question upon admitting to the discussion other counsel, who desire to be heard solely on the question of jurisdiction, was presented to the Senate and the motion thereon was adopted by an unanimous vote, at least the Chair heard no objection, 485, 486, 487, 488, 489, 491.

Senator THOMPSON. Mr. President, I desire to raise the point of order that a question to postpone for the present is not debatable.

Senator GOBIN. Mr. President, I rise to a point of order.

The PRESIDENT *pro tempore*. The Senator will state his question of order.

Senator GOBIN. It is very evident, in my judgment, that the substitute offered by the Senator from Bucks, is not germane to the original resolution. It is based entirely upon alleged facts and conclusions upon facts, whereas the original resolution is one pertaining solely to a question of law involving the jurisdiction of the Senate, and does not pertain to question of fact at all. The substitute, therefore, I submit, cannot properly be entertained at this time, and I raise the point of order upon it, 620.

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