

FRIDAY, April 26, 1872.

The Senate met pursuant to adjournment.

The President *pro tem.* in the chair.

Prayer by the chaplain.

The roll was called, and the following Senators answered to their names :

Mr. President, Messrs. Adams, Crawford, Dennis, Hill, Jenkins, Meacham and Wentworth.—8.

No quorum present.

Mr. Jenkins moved a call of the Senate ;

Which was agreed to, with the following result :

Mr. President, Messrs. Adams, Crawford, Dennis, Hill, Jenkins, Meacham, Purman and Wentworth—9.

Mr. Wentworth moved that the Sergeant-at-arms be sent after absentees ;

Which was agreed to.

Committee from the Assembly notified the Senate that the Assembly had organized.

Mr. Wentworth moved that further proceedings under the call be suspended.

The roll was called, with the following result :

Mr. President, Messrs. Adams, Atkins, Crawford, Dennis, Hill, Hunt, Jenkins, Meacham, Pearce, Purman, Weeks and Wentworth—13.

A quorum present.

The journal was read, corrected, and approved.

Mr. Wentworth moved that the Senate take a recess till eleven o'clock a. m. ;

Which was agreed to.

ELEVEN O'CLOCK A. M.

The roll was called, and the following Senators answered to their names :

Mr. President, Messrs. Hill, Hunt, Jenkins, Pearce, Purman, and Wentworth—7.

Mr. Wentworth moved that the Sergeant-at-arms be sent after absentees ;

Which was agreed to.

Mr. Wentworth moved that the further proceedings under the call be suspended ;

Which was agreed to.

Message from the Acting-Governor.

Gentlemen of the Senate and of the Assembly :

I regret the occasion which has compelled me to assemble the Legislature at this season of the year, which is so important to many of you, who are engaged in agricultural labors.

The public necessity for certain legislative action has appeared to me to be so imperative, and my own earnest sense of the responsibility which devolves upon the Executive under the peculiar circumstances that have recently arisen, are considerations which have caused me to feel justified in calling you together at some sacrifice of your personal interests.

On the 10th day of February last, at the regular session of the Legislature, certain proceedings were had by both branches thereof, which impeached Harrison Reed, Governor of the State, of high crimes and misdemeanors in office, and in accordance with the constitutional requirements, Governor Reed was suspended from his official duties, pending the final determination of the Senate upon the charges against him, and as Lieutenant-Governor of the State the duties of the Executive devolved upon me.

On that day I occupied the Executive office, and assumed the authority and functions of Chief Magistrate of the State, not, however, without the embarrassment of finding the Governor's office stripped of all official records, papers, and documents properly belonging thereto, which had been secretly removed by Governor Reed himself, or by his direction.

The Constitutional provision declaring the effect of an impeachment in relation to the rights of the person accused, is in the following expressed terms :

“ Any officer when impeached by the Assembly shall be deemed under arrest, and shall be disqualified from performing any of the duties of his office until acquitted by the Senate. But any officer so impeached and in arrest may demand his trial by the Senate within one year from the date of his impeachment.” (Art. 16, sec. 9.)

The Senate not having concluded the trial of Governor Reed, but having, on the contrary, continued the proceedings in the exercise of its judicial discretion, and having adopted a concurrent resolution expressive of the intention and purpose of both the prosecuting branch of the Legislature and of the Senate itself for a continuance, still holds in custody the person of the accused under its own warrant, and subject to its own rules and orders.

Such being the case, and Governor Reed having vacated the Executive office and removed his residence from the Capital to Jacksonville, did, on the 8th inst., by unlawful conspiracy with

Jonathan C. Gibbs, Secretary of State, and in my temporary absence, clandestinely enter the Executive office, and unlawfully attempted to take possession thereof, and issued a so-called proclamation declaring himself still to be in the exercise of the chief Executive duties of the State; the said Jonathan C. Gibbs confederating with him in this high-handed conspiracy, and affixing the Great Seal of the State to the so-called proclamation, attesting the same as Secretary of State.

In furtherance of this conspiracy to seize the State government, Governor Reed executed certain so-called appointments to office; one to William Birney, to be Attorney-General, and another to F. I. Wheaton, to be Judge of the Fourth Judicial Circuit; in which proceedings the Secretary of State co-operated, and in all respects recognized the authority of Governor Reed.

Instead of seeking by legal and proper methods, and in accordance with the Constitution and laws of the State, to reassume the duties of the Executive, Governor Reed and Secretary Gibbs, by a secret and artfully-planned conspiracy, seized the Great Seal of the State, together with important records and papers, being public property, and hastily removed the same to Jacksonville.

On being informed of these lawless and revolutionary proceedings, I repaired to the Executive office, and issued my proclamation, declaring the conduct of the conspirators "an attempted usurpation," and "revolutionary in its tendencies," and commanding obedience to the lawfully constituted authorities of the State.

In this action I have been almost universally sustained by the people, and have been offered every possible aid from all sections of the State in preserving the peace, order, and dignity of the government, and for the protection and support of my recognized Executive authority.

I have thus briefly laid before you the facts attending this most atrocious attempt by Governor Reed to seize the powers of the government, under color of a self-asserted right and in defiance of the judicial proceedings of a high constitutional forum, by which he was deprived of all authority whatever. It is true that this action has produced in some sections of the State confusion and distrust, and has made the exercise of official author-

ity on the part of some State and county officers a matter of divided opinion, and afforded a plausible pretext for a class of political malcontents to obstruct and embarrass the administration of the laws.

But whatever may be the differences of opinion respecting the legal effects of the adjournment of the Legislature without the trial of the accused by the Senate, there can be no circumstances which justify or palliate a resort to force or to unlawful conspiracy on the part of any State officer or pretended official, in bold defiance of the determination of a judicial tribunal. Whether that decision be right or wrong, lawful or unlawful, it is not within the sphere of the recognized legal rights, nor within the proper exercise of the power to vindicate personal liberty, on the part of any citizen, be he high or low, rich or poor, to question or override the validity or legal effect of any judicial proceeding, by attempting to subvert the laws, to defy the peace and good order of the State, and to incite rebellion and anarchy in the government.

Whatever may be the opinion of the supreme judicial authority of the State upon the question of the legal effect of the proceedings thus far held by the Senate in the suspension from office of Governor Reed, I do not deem it disrespectful, during the pendency of the consideration of such opinion, to call your attention to the paramount necessity at all times of recognizing and abiding by the *de facto* Executive authority of the State. No department of the government is more essential for the preservation of the peace and order of the community. Its powers and agency are distributed over the State in larger proportion than those of any other branch of the government, and are brought more directly in contact with the people. It is the immediate representative of the sovereign will of the people, and upon its vigorous and discreet action the courts and all judicial authority rely for the ultimate vindication of justice and the security of good government. In this view of my own duty, I hold the conduct of Governor Reed and all his abettors as revolutionary and criminal, and in no manner justifying the countenance or support of any law-abiding citizen, *until* having been declared by a tribunal of competent jurisdiction entitled to resume his Executive functions. It is therefore that I feel bound

by my oath, and by my sense of public duty, to compel obedience to my authority, and to use every power in me vested by law to suppress all attempts to subvert it.

I call your attention to these extraordinary facts, and suggest such legislation as in your wisdom the circumstances may seem to require.

THE PUBLIC CREDIT.

I am pleased to be able to inform you that such measures are being taken that are lawfully within the authority of the Executive Department of the State, as will tend to re-establish the public credit and inspire confidence in the honest and faithful administration of the State finances. I rely upon the law-making power to perform its duty to the people, by framing such effective laws as will in no possible manner serve to cover the retreat of official defaulters.

The accounts of delinquent tax-collectors as they stand in the Comptroller's office, amount to about \$150,000, to this amount may fairly be added 20 per cent. of the balance due of the tax list of 1871, which makes over \$200,000.

I earnestly recommend the passage of a law repealing the act of January 22, 1851, relating to the terms of office and duties of tax-collectors; also, the passage of such a law as will compel all collectors of revenue to make monthly returns of moneys collected, and that any omission to make such payments within the time stated be made a felony; also requiring adequate bonds and the best possible surety; and providing that when any person, a surety upon such a bond, shall be dissatisfied, upon proper notice, the County Commissioners shall require the collector to procure additional surety, which, if not done within thirty days, the office shall be deemed and declared vacant.

In this connection, I also recommend that in the recovery of moneys from defaulting collectors by civil or criminal action, the State attorney be prohibited from receiving for fees any part of the funds recovered, and that the same be deposited in court subject to the order of the Comptroller. I will not hesitate to rigidly enforce such legislation to the fullest extent of my ability.

For your information and that of the people whom you represent, I herewith present a carefully-prepared statement of the

public debt, which I believe is as nearly correct as it is possible at present to ascertain. I have thought proper to accompany the tabular statement with explanations, that you may clearly understand the exact financial condition of the State.

No record other than that herewith communicated in the letter of the Comptroller exists in this department, nor in the office of the Comptroller, relating to the disposition of the six per cent. bonds placed by the Legislature in 1870 in the custody and under the irresponsible control of Governor Reed. No report has ever been made by Gov. Reed of the sale or other disposal of any of these bonds. They are, however, in the hands of various parties, who demand of the State the payment of the interest accrued since 1868 and 1869, when they were issued. The Comptroller received \$103,322.16, advanced on the hypothecation of 408 bonds, or about 25 per cent.

By sale of 46 bonds to various persons named in the communication of the Comptroller, very nearly a par value was received by the State. There was paid \$30,000 for a fraudulent account for State arms presented by Governor Reed. Three bonds were paid into the Internal Improvement Fund, leaving thirteen bonds unaccounted for by Governor Reed. The bonds hypothecated to the Warehouse and Security Co. of New York for \$30,000 advanced, are still held by them at an exorbitant rate of interest. The bonds hypothecated to Soutter & Co., and to Geo. W. Swepson, in all 299 bonds, are now held by L. P. Bayne & Co., of New York, who have rendered an account to the State of only 298 bonds, showing a deficit of one bond, which, added to the twelve placed on special deposit with Soutter & Co. in favor of Governor Reed, makes thirteen bonds not accounted for. Messrs. Bayne & Co. claim to have advanced cash on these 298 bonds, to the amount of \$104,093.70, and the Security Co. on the 102 bonds held by them, \$30,000, making \$134,093.70; but the amount received by the Comptroller was only \$100,000.

It has been impossible to account for this \$34,093.70, which, if advanced, must have been on the bonds transferred to Bayne & Co. by Soutter & Co. and Swepson. If Governor Reed received the money, he has never accounted for it to the State; neither for the thirteen bonds balance in his hands. I am satisfied, however, that present investigations will ultimately

expose in detail the frauds of this bond transaction of Governor Reed, and the most effective means will be employed to reimburse the State and punish the offenders.

The issue of \$350,000 of 7 per cent. bonds, authorized by the Act of January 26, 1871, has been exhausted. These bonds have been taken up with singular rapidity; a fact which exhibits their popular value as a permanent investment, as well as the increased public confidence in the integrity of the State government. Notwithstanding the depreciated credit, which has been caused by the fraudulent practices, and in many respects extravagant expenditures, during the past three years, in the executive department of the State, these bonds, issued for the purpose of funding the principal portion of our floating indebtedness, have been very generally sought for. I feel gratified in calling these facts to your attention, as a strong indication of the speedy improvement of the financial condition of the State.

I would recommend that a statute be enacted, regulating the succession in office in cases of impeachment, death, resignation, or other causes.

I also ask the consent of the Senate to such nominations or removals as may be communicated to them in Executive Session.

Before the adjournment of the session I will take occasion to recommend to your consideration such legislation in regard to State Finances, as will in my judgment, tend to secure a more effective and satisfactory operation of the laws for the assessment and collection of the revenue, and be most beneficial to the best interests of the State.

In conclusion, permit me to congratulate you upon the continued prosperity of the State in all the avenues of internal improvement, in the rapid development of our resources, and the active co-operation of all classes of the people in its political and material progress.

SAMUEL T. DAY,
Acting Governor.

Mr. Jenkins moved that the Senate adjourn till to-morrow at 10 o'clock a. m.

Which was agreed to.

The Senate adjourned till to-morrow at 10 o'clock a. m.