

8437

No. \_\_\_\_\_

# Supreme Court of Illinois

people, ex. rel., Keys

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vs.

Jesse K. Dubois, Auditor,

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To the Honorable Justices of the Supreme Court of the  
State of Illinois

The return of Jesse K Dubois Auditor of Public  
Accounts of the State of Illinois to the Alternative writ of  
Mandamus awarded by said Court on the relation of  
Charles A Keyes.

The respondent humbly insisting that said  
Court has no power or authority to order him by Mandam-  
us or otherwise to draw his warrant upon the Treasurer  
of the State of Illinois for the sum of money in said al-  
ternative writ of Mandamus mentioned for the causes  
therein set forth or for any other cause: and that the said  
Alternative writ of Mandamus ought to be hence dismissed  
for want of jurisdiction, as a matter of courtesy to your  
honors and not thereby submitting himself to the juris-  
diction of said Court or waiving any of his rights in that  
regard humbly certifies and returns, that it is true that  
the relator was duly elected a member of the House of  
Representatives of the twenty third General Assembly of said  
State of Illinois for the twentieth representative district  
of said State on the 4<sup>th</sup> day of November 1862, and was  
duly qualified and took his seat in that body on the  
first Monday of January 1863: that said General Assem-  
bly was in session until the 14<sup>th</sup> day of February 1863  
when in pursuance of a joint resolution to that effect  
therefore passed by both houses it took a recess until

the Tuesday after the first Monday of June 1863. when it resumed its session and continued the same until the 10<sup>th</sup> day of June 1863 when the said General Assembly was adjourned and closed its session.

The respondent further certifies and returns, that the said General Assembly did not continue its session from the 10<sup>th</sup> day of June 1863 until the 24<sup>th</sup> day of June 1863 as is in said alternative writ of Mandamus alleged and that said General Assembly did not on the day and year last aforesaid in accordance with a joint resolution of both houses to that effect take a recess until Tuesday after the first Monday of January 1864 as is in said alternative writ of Mandamus alleged.

The respondent further certifies and returns, that on the 8<sup>th</sup> day of June 1863 the Senate adopted a joint resolution to adjourn sine die on said day at six o'clock P.M. which resolution upon being submitted to the house of Representatives on the same day was by them amended by substituting the 22<sup>d</sup> day of June and the hour of ten o'clock A.M. which amendment the Senate <sup>on the same day</sup> thereupon refused to concur in; and that the disagreement so created ~~adversely affected the business~~ ~~was officially certified by the speaker of the Senate~~ as aforesaid, continued to exist on the 10<sup>th</sup> day of June 1863. whereof the Governor had been officially notified by the speaker of the Senate <sup>on the said 10<sup>th</sup> day of June 1863</sup> when the Governor made his proclamation set forth in the alternative writ of

Maudamur, and communicated the same to the two  
houses of the General Assembly on the day and year  
last aforesaid, and then by adjourned the same in accordance with the  
purpose of the constitution in such case made and provided.

This respondent further certifies and returns, that <sup>all</sup> the  
members of the two houses of the General Assembly did  
on the said 10<sup>th</sup> day of June 1863, in accordance with  
and in obedience to the said proclamation of the Governor  
disperse and close the session of the said General  
Assembly; and that a large majority of said members  
did, <sup>on the day and year last aforesaid</sup> receive from this respondent warrants for their  
per diem and mileage as will more fully appear  
by Schedules A & B hereto annexed which are copies  
of the originals now on file in this respondent's  
office.

This respondent further certifies and returns, that  
he has no knowledge except hearsay of the proceedings  
of the two houses of the General Assembly prior to,  
and including the 10<sup>th</sup> day of June 1863, but this  
respondent is advised and believes that Schedules  
C & D hereto annexed are true copies of the journals  
of the two houses of the legislature relative to the  
matter set forth in said alternative writ up to  
and including the said 10<sup>th</sup> day of June 1863, and of certain  
proceedings had by less than a quorum of said houses respectively, after the said houses respectively  
were adjourned aforesaid.

This respondent further certifies and returns, that  
neither house of the General Assembly was in session  
on the 23<sup>d</sup> or 24<sup>th</sup> days of June 1863, nor has either  
of said houses been in session at any time since  
their adjournment on the 10<sup>th</sup> day of June 1863, as  
aforesaid.

This respondent further certifies and returns, that he has been informed and believes that certain members <sup>two members of the Senate and four members of the House and no more</sup> of said houses respectively, <sup>on the 23<sup>d</sup> and 24<sup>th</sup> days of June 1863.</sup> illegaly, wrongfully and, without any authority whatever, assumed to act as the said two houses of the General Assembly; and that the said persons so wrongfully <sup>to act</sup> assuming as the two houses of the legislature kept or caused to be kept certain minutes of their proceedings Copies whereof <sup>are</sup> hereunto attached and marked Schedules E & F.

This respondent further certifies and returns, that he is informed and believes that the relator was not in his seat and discharging his duties as a member of the House of Representatives of the General Assembly on the 23<sup>d</sup> and 24<sup>th</sup> days of June 1863, and that the relator was not in attendance on any Session of the House of Representatives on either of said days: And that the relator was not and is not entitled to the sums of money in said alternative writ mentioned.

This respondent further certifies and returns, that the Hon. Samuel A. Buckmaster, Speaker of said House of Representatives did grant to the relator a certificate signed by said Buckmaster a copy whereof is set forth in said alternative writ of Mandamus, and that the relator, on or about the 16<sup>th</sup> day of October 1863

presented the said certificate to this respondent  
and demanded that this respondent should  
issue his warrant in legal form upon the  
Treasurer of the State of Illinois for the sum  
of two dollars; which demand this respondent  
refused to comply with because the said claim  
was wrongful, fraudulent and unjust, and the  
certificate of said Suckmaster so presented to  
this respondent as aforesaid as evidence of said  
claim was not true in fact and was wrongfully  
fraudulently and illegally issued

And for these reasons and causes the respondent certifies and returns  
that he ought not ~~to~~ issue his warrant as Auditor of Public Accounts  
upon the Treasurer of the State for the sum of two dollars for the  
alleged services of the petitioner in said alternative writ of Mandamus  
mentioned and that the said Court has <sup>not</sup> jurisdiction or authority  
to require him so to do -

Jeff. K. Anbois Auditor

# House Pay Roll

Hall of the House of Representatives

Springfield June 10<sup>th</sup> 1863

I Samuel A Duckmaster Speaker of the House of Representatives of the Twenty-third General Assembly of the State of Illinois do hereby certify that the following statement contains a correct estimate of the compensation of each member of the House of Representatives and the officers therein named for services at the adjourned session which commenced on the 2<sup>d</sup> day of June A D 1863 as well for per diem allowances as for mileage allowances to How Perry A Armstrong who was elected subsequent to the adjournment of the regular session of said General Assembly

(Signed)

S. A. Duckmaster

Speaker of the House of Representatives

Number of Warrants	Names of Members	Number of Days	Amount of Pay	Received Payment
1009	Armstrong Perry A.	9		
"	same.	No of miles 340	44 00	Perry A Armstrong (340 miles)
1092	Barnard Algernon S.	9	10 00	A S Barnard
1010	Black Jacob P	9	10 00	J P Black
1011	Boyer Charles E	9	10 00	C E Boyer
1012	Brandt Michael	9	10 00	Michael Brandt per S Hirschback
1013	Brutano Lorenz	9	10 00	L Brutano by S Hirschback
1014	Brown William F	9	10 00	Wm F Brown
1015	Burchard Horatio C.	9	10 00	Horatio C Burchard

1016	Burr Albert G	9	10 00	Albert G Burr
1017	Busey John S	9	10 00	John S Busey
1018	Cabren Thomas D	9	10 00	T B Cabren per Ransom
1019	Chapman John F	9	10 00	J F Chapman
1020	Church Selden W	9	10 00	S W Church
1021	Coffin Gustavus F	9	10 00	G F Coffin
1022	Cook Aurel B	9	10 00	A B Cook
1023	Conger Channey S	9	10 00	C S Conger
1024	Dougherty Philander	9	10 00	P Dougherty
1025	Davis Jefferson A	9	10 00	J A Davis
1026	Deut John A	9	10 00	John A Deut
1027	Deut George	9	10 00	Geo. Deut
1028	Eastman Francis A	9	10 00	
1029	Elder James	9	10 00	James Elder
1030	English John W	9	10 00	J W English
1031	Epler James M	9	10 00	Jas M Epler
1032	Ford Jesse R	9	10 00	Jesse R Ford
1033	Fuller Melville W	9	10 00	M W Fuller
1034	Gale James V	9	10 00	James V Gale
1035	Gerard John	9	10 00	John Gerard
1036	Gibson Theodore E	9	10 00	T E Gibson
1037	Günther William E	9	10 00	Wm E Günther & Hirschback
1038	Goodell Addison	9	10 00	Addison Goodell
1039	Graham John G	9	10 00	J G Graham
1040	Gunn Henry	9	10 00	H Gunn
1041	Haines Elijah M	9	10 00	E M Haines
1042	Harris Lemas L	9	10 00	
1043	Heard James M	9	10 00	J M Heard



1044	Nicks Thomas D	9	10 00	D B Nicks
1045	Nolgate James	9	10 00	Nolgate
1046	Nolyok Joseph M	9	10 00	Daul R Howe
1047	Howe Daniel R	9	10 00	Char A Keyes
1048	Keyes Charles A	9	10 00	John Kistler
1049	Kistler John	9	10 00	Lyman Lacy
1050	Lacey Lyman	9	10 00	Chauncey A Lake
1051	Lake Chauncey A	9	10 00	
1052	Lay Nelson	9	10 00	L W Lawrence
1053	Lawrence Luster M	9	10 00	S S Mann
1054	Mann Sylvester S	9	10 00	S S Mann
1055	McLann Robert H	9	10 00	R H McLann
1056	Mnard Edmund	9	10 00	E Mnard
1057	Merritt John M	9	10 00	John W Merritt
1058	Miles Stephen W Jr	9	10 00	Stephen W Miles Jr
1059	Miller Ambrose	9	10 00	Ambrose M Miller
1060	Monroe John	9	10 00	John Monroe
1061	Merrill Milton M	9	10 00	M M Merrill
1062	Noble Harrison	9	10 00	H Noble
1063	O'Brien William	9	10 00	Wm O'Brien by Dr <sup>o</sup> Lindsay
1064	Odell David M	9	10 00	D W Odell
1065	Patty Marcey D	9	10 00	Marcey D Patty
1066	Peffer Henry R	9	10 00	Henry R Peffer
1067	Rid Lewis J	9	10 00	L J Rid
1068	Rossler Ruben	9	10 00	Ruben Rossler
1069	Sedgwick Nestel M	9	10 00	Nestel W Sedgwick
1070	Sharon Joseph	9	10 00	Joseph Sharon
1071	Sharp James M	9	10 00	James M Sharp

1072	Shope Senirion P	9	10 00	S P Shope
1073	Smith James H	9	10 00	James H Smith
1074	Smith Seander	9	10 00	Seander Smith
1075	Springer John D	9	10 00	J D Springer
1076	Ten Brook John	9	10 00	John Ten Brook
1077	Tenny Doynton	9	10 00	
1078	Thomas John	9	10 00	
1079	Throop Amos G	9	10 00	Amos G Throop
1080	Turner James D	9	10 00	James D Turner
1081	Underwood Joseph B	9	10 00	J B Underwood
1082	Wakeman Radus B	9	10 00	R B Wakeman
1083	Walker Charles A	9	10 00	C A Walker
1084	Washburn James M	9	10 00	James M Washburn
1085	Watkins William	9	10 00	Mr Watkins
1086	Wenger Elias	9	10 00	Elias Wenger
1087	Westcott John W	9	10 00	John W Westcott
1088	Wheat Alexander E	9	10 00	A E Wheat
1089	Wike Scott	9	10 00	Scott Wike
1090	Williams Henry M	9	10 00	Henry M Williams
1091	Witt William B.	9	10 00	Wm B Witt
1093				
1094				
1095				
1096				
1097				
1098				
1099				
1100				

# Officers Pay-Roll      House of Representatives

No of Warrant	Names of Officers	Number of Days	Per Diem	Amount of Pay	Received Payment.
1093	Buckmaster Saml A Speaker	9	<sup>1<sup>st</sup> day 73.</sup> after 72	19 00	S A Buckmaster
1094	Hannan John 2 Clerk	9	6.00	54 00	Mr J Hannan
1095	Martin Jimm S 1 <sup>st</sup> Ass't do	9	6.00	54 00	J S Martin
1096	Springer Wm M 2 <sup>d</sup> " do	9	6.00	54 00	W M Springer
1097	Turney Wm A 3 <sup>d</sup> " do	9	6.00	54 00	Wm A Turney
1098	Walsh Charles Door Keeper	9	6.00	54 00	Char Walsh
1099	Husted John 1 <sup>st</sup> Ass't do do	9	6.00	54 00	John Husted
1100	Davis Wm L 2 <sup>d</sup> do do do	9	6.00	54 00	W L Davis
1101	Hise John Eng & Eng Clerk	9	6.00	54 00	Mr Hise
1102	Kelly Hubert 1 <sup>st</sup> Ass't do do	9	6.00	54 00	Hub Kelly
1103	Merritt Joseph 2 <sup>d</sup> do do do	9	6.00	54 00	J D Merritt
1104	Wood Ruben Postmaster	9	6.00	54 00	Ruben Wood
1105	Higgins Isaac St. Official Reporter	9	6.00	54 00	I N Higgins

I John J Harmon Clerk of the House of Representatives do hereby certify that Samuel A Buckmaster Speaker of the House of Representatives is entitled to the compensation expressed in the foregoing statement for his services as Speaker.

(Signed)

John J Harmon Clerk of the House of Representatives

Revenue Stamp

Auditor's Office Illinois

Springfield November 4<sup>th</sup> 1863

I Jesse K Dubois, Auditor of Public Accounts of the State of Illinois, do hereby certify that the foregoing is a correct copy of the Pay Roll of the House of Representatives of the 23<sup>d</sup> General Assembly, for the adjourned Session thereof commencing June 2<sup>d</sup>, 1863, now on file in my Office

In testimony whereof, I have hereunto subscribed my name and affixed the seal of my Office the day and year above written

Jesse K Dubois Auditor P. A.



# Senate Pay Roll.

Senate Chamber, Illinois  
Springfield June 10<sup>th</sup> 1863.

I, Francis A Hoffman, Speaker of the Senate of the Twenty-third General Assembly of the State of Illinois do hereby certify that the following Statement contains a correct estimate of the compensation of each member of the Senate and the officers therein named for services at the adjourned session which commenced on the 2<sup>d</sup> day of June A D 1863 until the adjournment of the same by the Governor on the 10<sup>th</sup> day of June A D 1863, as well for per diem allowances as for mileage allowances to William A Sparks who was elected to fill vacancy subsequently to the adjournment of the 23<sup>rd</sup> General Assembly

(Signed) Francis A Hoffman  
Speaker of the Senate

<u>Number of Warrants</u>	<u>Names of Members</u>	<u>Number of miles</u>	<u>Number of days</u>	<u>Amount of pay</u>	<u>Received Payment</u>
973	Adams John H.		9	10.00	John H Adams
974	Allen Edward R		9	10.00	E R Allen
975	Berry William		9	10.00	William Berry
976	Blauchard Israel		9	10.00	I Blauchard
977	Bushnell Washington		9	10.00	W Bushnell
978	Sumner Henry E		9	10.00	
979	Frank Isaac		9	10.00	Isaac Frank
980	Gunn William H		9	10.00	William H Gunn
981	Gregg Hugh		9	10.00	H Gregg
982	Knapp Colby		9	10.00	C Knapp

<u>Number</u> <u>of</u> <u>Warrants</u>	<u>Names</u> <u>of</u> <u>Members</u>	<u>Number</u> <u>of</u> <u>Miles</u>	<u>Number</u> <u>of</u> <u>Days.</u>	<u>Amount</u> <u>of</u> <u>Pay</u>	<u>Received</u> <u>Payment.</u>
983	Lansing Cornelius		9	10 00	Cos Lansing
984	Lindsay John D		9	10 00	M <sup>r</sup> Lindsay
985	Mack Alonzo W.		9	10 00	A W Mack
986	Mason Albert C		9	10 00	A C Mason
987	Moffatt Samuel		9	10 00	Samuel Moffatt
988	Ogden William B		9	10 00	W B Ogden / in Country
989	Peters Joseph		9	10 00	J Peters
990	Pickett Roman J		9	10 00	J Pickett
991	Richard David		9	10 00	D Richard
992	Seofield Bryant T		9	10 00	B T Seofield
993	Sparks William A J	300.	9	40 00	W A J Sparks
994	Underwood William H		9	10 00	W H Underwood
995	Vanderweir Horatio M		9	10 00	H M Vanderweir
996	Ward Jasper D		9	10 00	J D Ward
997	Worcester Linus E		9	10 00	L E Worcester
998	Hoffman Francis A <i>Speaker</i>		9	19 00	Francis A Hoffman

## Officers Pay Roll.

999	Mayfield Manning	Secretary	9	54 -	Manning Mayfield
1000	Abbott Nelson	Asst. Do	9	54 -	Nelson Abbott
1001	Ramerville William	" "	9	54 -	W <sup>m</sup> Ramerville
1002	Houck Lewis	Clerk & Eng. Clerk	9	54 -	Lewis Houck
1003	Murray M J	Asst. Do	9	54 -	M J Murray
1004	Lowe James	" "	9	54 -	James Lowe

## Officers Pay-Roll. continued

	Maggover David J	Serg't at Arms	9	\$54 -	
1005	Blades J M	Ass't Do	9	54 -	J M Blades
1006	Skidmore A B	Ass't Do	9	54 -	A B Skidmore
1007	Ward James	Postmaster	9	54 -	James Ward
1008	Jones J Howard	Official Rep	9	54 -	J H Jones

I, Manning Mayfield Secretary of the Senate do hereby certify that Francis A Hoffman Lieutenant Governor is entitled to compensation as Speaker of the Senate as expressed in the foregoing statement.

(Signed) Manning Mayfield  
Secretary of the Senate

### Auditor's Office Illinois

Springfield November 4<sup>th</sup> 1863

I, Jesse K Dubois, Auditor of Public Accounts of the State of Illinois, do hereby certify that the foregoing is a correct copy of the Pay Roll of the Senate of the 23<sup>d</sup> General Assembly for the adjourned session thereof commencing June 2<sup>d</sup>, 1863 now on file in my office

In testimony whereof I have hereunto subscribed my name and affixed the seal of my office the day and year above written

Jesse K Dubois Auditor P. A.







Mr Witts moved the previous question which was decided and the main question ordered to be now put and under the operation thereof the question was put upon the amendment submitted by Mr Walker and decided in the affirmative Year 45 May 21.

So the amendment submitted by Mr Walker was agreed to.

The question moved upon the adoption of the resolution as amended and it was decided in the affirmative Year 51 May 13.

So the said Senate resolution was agreed to as amended

X X X X X X X X X X X X X X X X X

Mr Burr submitted the following preamble and resolutions, viz.

"Whereas this House desires to reconsider its action taken this day in amending and adopting the Senate resolution relative to adjournment therefore

"Resolved, that the Hon Senate is hereby requested to return said resolution as amended by the House for reconsideration"

And the question being put: Will the House agree thereto? It was decided in the affirmative Year 44 May 21.

X X X X X X X X X X X X X X X X X

On motion of Mr Lawrence at 9 o'clock and 35 minutes the House adjourned till Wednesday 9 o'clock A.M.

Wednesday June 10<sup>th</sup> 1813.

The House went pursuant to adjournment.

On motion of Mr Burr the reading of the journal was dispensed with.

On motion of Mr Burr.

Resolved that a committee of five from the House be appointed by the Chair to confer with a committee of three from the Senate on the bill for the relief of Illinois Soldiers; Which was adopted.

Whereupon the Speaker appointed the following members: Messrs Ben Lake, Fuller, Springs and Sharp.

The Speaker laid before the House a communication from the Governor transmitting the report of the commission appointed in pursuance of a resolution passed by the General Assembly to procure the discharge of certain citizens of Illinois serving in the Marine Artillery.

The Speaker laid before the House a communication from the Common Council of Chicago, transmitting certain resolutions of the Council in relation to the construction of horse railways in that city.

The Speaker announced that the first business in order, was the order of business at last adjournment viz the calling of the roll alphabetically and allowing each member to call up one bill and put it upon its passage.

<sup>Lawrence</sup> Mr ~~Ston~~ moved to dispense with said order and to take up the bill providing for the ordinary and contingent expenses of the State government until the adjournment of the next regular session.

Mr Fuller moved to lay the said motion upon the table; and the question being put it was decided in the affirmative Yeas 47 Nays 16.

So the motion submitted by Mr Lawrence was laid upon the table.

The House then proceeded to the calling of the roll for the calling up and passage of Bills.

On motion of Mr. Purchard the vote by which the Bill for an act to incorporate the Fireproof Insurance Company failed to pass for the want of a quorum was reconsidered. The question was then put - Shall the bill pass? & it was decided in the affirmative Yeas 0 yeas 100.

84.

W. Armstrong when his name was called, introduced by unanimous consent a bill for an act in relation to Appropriations, which was read a first time & ordered to a second reading. The rules were suspended & the bill read a second time & referred to the Committee on Public Accounts & Expenditures.

W. Burr called up a bill for an act to provide for the payment of the interest upon the State debt and for the sale of certain Gold and Silver coin belonging to the State of Illinois.

W. Turner moved to refer the bill to the Committee on Public Accounts and Expenditures.

W. Lacey moved to amend the bill by adding to the first section the following viz: and be it further provided that the Treasurer shall not sell gold until the money is needed to be paid out by the Treasurer, and all legal tender notes now in the Treasury and that may come into the Treasury shall be first paid out.

Pending which, a message from the Governor was announced by the Door Keeper & read but the bearer of the message was not recognized by the Speaker.

Whereupon W. Smith of Union moved to adjourn till 2 o'clock P.M.

~~Resolved~~

~~The House on this day passed the following resolution~~  
~~Resolved that the Committee on Public Accounts and Expenditures~~  
~~be authorized to report on the bill for an act to provide for the payment~~  
~~of the interest upon the State debt and for the sale of certain~~  
~~Gold and Silver coin belonging to the State of Illinois.~~

Mr Burr moved to adjourn without a day, after debate  
the motion to adjourn was withdrawn  
On Motion of Mr Walker a call of the House was ordered  
whereupon the following named members failed to  
answer to their names, viz: x x x x x x  
x x x x x x x x x x

No quorum having appeared, on motion of Mr  
Walker further proceedings under the call were  
dispensed with,

Mr Burr offered the following preamble and reso-  
lutions which were adopted, viz: Whereas the  
House is without a quorum for the transaction  
of business, and whereas an attempt has been made  
irregularly and unconstitutionally as we deem  
by his Excellency Gov Yates to prorogue this  
General Assembly. Therefore Resolved by the House  
of Representatives the Senate Concurring, that  
a Committee of three from the House be appointed  
to act with a Committee to be appointed by the  
Senate to prepare an address to the people sta-  
ting why we are not engaged in transacting the  
legitimate business for which we are elected,  
whereupon the Speaker appointed the following  
named members on said Committee, Messrs  
Burr, Fuller & Turner.

A message from the Senate by Mr Mayfield Secy  
Mr Speaker: I am directed to inform the House  
of Representatives that the Senate has concurred

in the adoption of the following resolution, viz:  
 Resolved that a Committee of five from the House  
 be appointed by the Chair to confer with a  
 Committee of three from the Senate on the bill  
 for the relief of Illinois Soldiers, and have app-  
 ointed as members of that Committee Messrs  
 Underwood, Gunn & Mack, and then, on motion  
 of Mr Burr the House adjourned til 2 O'clock  
 P.M.

Two O'clock P.M.

The House met pursuant to adjournment

Mr Burr from the Committee of Conference upon  
 the bill for the relief of Sick and Wounded  
 Illinois Soldiers submitted the following report  
 viz: To the Speaker and

Members of the House of Representatives. The Committee of the House appointed to confer with a like Committee of the Senate on the subject of the disagreement of the two Houses on the bill for the relief of the Sick & wounded Illinois Soldiers was instructed me to report that said joint Committee decided in favor of accepting the bill as amended by the Senate. Your Committee therefore recommend that the House concur with the Senate in the amendments made in that body

Albert G Burr

Chambliss

The report was concurred in

XXXXXXXXXXXX

A message was received from the Senate by W. M. Mayfield sety informing the House that the Senate had concurred in the adoption of the following resolution

Whereas the House is without a quorum for the transaction of business, and whereas an attempt has been made irregularly and unconstitutionally as was done by His Excellency, Governor Yates to prorogue the General Assembly therefore Resolved by the House of Representatives, the Senate concurring that a Committee of three from the House be appointed to act with a Committee to be appointed by the Senate to prepare an address to the people stating why we are not engaged in transacting the legitimate business for which we are elected, and that the House has appointed as said Committee on their part Messrs Burr, Fuller & Turner and have appointed as members

of that Committee Messrs Lindsey and Sparks  
 in Mayfield

Secty

Mr. Keyser offered the following resolution

Whereas the Committee of Conference of the Senate and House of Representatives upon the bill for the relief of Sick and wounded Illinois Soldiers have agreed upon the Substitute passed by the Senate, and whereas both houses of this General Assembly are without a quorum by reason of the Republican members absenting themselves from their seats after the attempt of the Governor by message to adjourn this General Assembly, Therefore be it Resolved by the House of Representatives the Senate concurring herein that the Republican members of both Houses be and they are hereby requested to return to their respective seats thereby giving a quorum to both Houses and insuring the passage of the bill for the relief of the Sick and wounded Illinois Soldiers, and the question being, Will the House agree thereto? it was decided in the affirmative

Mr. Burr moved that the bill for the relief of Sick and wounded Soldiers of Illinois be now taken up & that the House concur with the Senate amendment in accordance with the report of the Committee of Conference, which motion was agreed to, and the question being put, Will the House concur with the Senate amendment to said bill? and the yeas and nays being taken thereon, resulted as follows: Yeas 44 Nays 00. There being no quorum voting, said bill was lost. So the bill failed to pass for want of a quorum.

Whereupon Mr Fuller from the Special Committee  
for that purpose submitted the following protest  
which was ordered to be spread upon the records  
Viz:

THE PROTEST OF THE DEMOCRATIC MEMBERS OF  
OUR LEGISLATURE.

Upon this 10th day of June, A. D. 1863, while the General Assembly were in session and engaged in the discharge of their constitutional duties, an attempt by the Governor of Illinois was made to dissolve this body; which attempt, illegal, unconstitutional, and outrageous as it is, must inevitably result in the cessation of any further legislation at this time.

The circumstances attending this monstrous and revolutionary usurpation of power, and the injurious consequences which must result to the people of the State, demand a brief statement on our part which we submit with confidence to the consideration of a discerning and candid public, whose rights have thus been ruthlessly invaded, and whose interests have been disregarded and trampled under foot.

The action of the Governor in this nefarious attempt to stop the legislation of the State is supposed to be based upon the following provision of the State constitution.

"ART. IV—SEC. 13. In case of disagreement between the two houses with regard to the time of adjournment, the Governor shall have power to adjourn the General Assembly to such time as he thinks proper, provided it be not to a period beyond the next constitutional meeting of the same."



Attest

And the first question to be determined is, what is such a disagreement under the constitution as would justify the interposition of the Executive? Nor is the answer difficult to arrive at, since this point has been so well and thoroughly settled that it needs but its statement to determine the inquiry beyond cavil or contradiction. When one house amends the resolution or alters legislative action of the other, as to the time of adjournment or any other subject, and the house proposing the resolution or action refuses to concur with the amendments so made, the amending house must be first informed of such non-concurrence, in order to recede and concur or take such other action in the premises as may tend to an agreement of both on the basis of compromise.

The amending house, being informed of non-concurrence in its action by the other, may either itself recede and concur, or adhere, and propose and appoint a committee of conference, which is the next step to be taken. And it is only when one house refuses to join in a committee of conference, or when such committee, having been appointed, fails to arrive at a common result, or, having so done, the same is not agreed on and adopted by both houses, that the disagreement spoken of in the constitution has been produced; and the usual parliamentary proceeding is to have two free conferences before final disagreement results. Both houses must be at a dead lock, without hope of or effort towards agreement, before Executive action can be invoked or legally taken. Were the rule otherwise, it would require the invariable agreement of each house to whatever the other chose to propose. And until this time it has never been questioned in Europe or this country that such was the rule.

Nor can the Executive take action, even where an actual disagreement exists, until officially informed thereof by both houses.

Tested by these principles, we present the facts in the present case, which will demonstrate the indefensible character of the proceeding which we reprobate and condemn.

*“Resolved by the Senate, the House of Representatives concurring therein, That this General Assembly will adjourn sine die on the 8th inst., at 6 o'clock P. M.”*

Which resolution was at once transmitted to the House, and, being taken up by that branch of the Legislature, was amended by the substitution of the 22d day of June instead of the 8th.

The resolution, being thus amended, was returned to the Senate for its action, whereupon that body refused to concur in the amendment.

The House was not then, and has not since been, officially informed of the non-concurrence of the Senate in the amendment in question, and no opportunity has as yet been afforded that body to recede from its previous action, if it so desired.

The regular parliamentary progression has not been observed; the House has not refused to recede and concur with the Senate in its action; no committees of conference have been proposed or appointed; and, in short, no disagreement has existed, or can be presumed as existing, in the premises.

Neither has the legal and official notification of a disagreement been laid before the Governor, as, indeed, it could not have been, since it was well known and understood that there was no such disagreement in fact.

We have thus briefly stated the position of affairs which the Governor of the great State of Illinois has made use of as a pretext for an arbitrary, illegal attempt to bring the deliberations of the General Assembly to a close.

By this action he has deliberately and designedly defeated the passage of measures of great public importance, and demanded by the exigencies of the times.

He has defeated the appropriation of one hundred thousand dollars for the gallant sons of Illinois who are bleeding and dying upon the battle-field and in the hospital, and whose terrible condition invites the sympathy of every human heart, and demands the earnest effort in their behalf of every citizen of the State on which they have shed imperishable glory. The bill for that purpose, already passed both houses, and pending simply upon a slight difference of opinion as to some of its details, in the lower house, which difference has now been happily removed, is defeated merely because the miserable partisanship of the Chief Executive, who usurps the unmerited title of the "Soldier's Friend," prevented him from consenting that a legislature having a majority of his political opponents should have the honor, as they would enjoy the privilege, of flying to the rescue of their gallant brethren.

He has defeated the bill for the sale of the coin in the treasury and the payment of our interest in treasury notes, saving hundreds of thousands to the people, which was on its final passage as the supporters of this action left the halls of legislation at the bidding of their master.

He has defeated the passage of the general appropriation bills already passed the Senate, and pending in the House and ready for passage, which the Senate had acted on without delay, and to which no obstruction was intended to be, would or could have been, interposed by the House.

He has defeated the printing of the report of the State Agricultural Society, an appropriation for which passed the House and was on its passage in the Senate, and the distribution of the appropriation for agricultural purposes made by the general government, and as yet unapplied to the ends for which it was intended, to the great detriment of the vast agricultural interests of Illinois, for whose benefit the measures were intended.

He has defeated the appropriation for the State Normal University, and the property will be sold under the existing judgments, and this noble institution be destroyed.

The memory of the great dead could not restrain him, and the appropriation for the erection of a monument to Douglas receives its death blow at his hands.

He has defeated the general and local legislation of the State, for much of which pressing necessity existed, and which was so fully matured as to require for its completion but slight farther action.

He has done all this without the shadow of a legal pretext, and in defiance of a well nigh universal public opinion.

Even partisanship affords no palliation for the pursuit of such a course, since no political measure has been pressed upon either branch of the Assembly during the recent period of its session. Which is the more guilty, the individual who proposes, or the wretched agents who carry into effect, an act so utterly indefensible, it is not for us to determine. It is sufficient that all the actors, aiders and abettors of this scheme to block the wheels of government will receive the condemnation they deserve from an outraged people.

The manner in which this action was attempted to be taken deserves a passing notice. The statement by one branch of the government to a co-ordinate branch thereof, that its action has not been conducive to the public welfare, is disrespectful in terms, and an insult so obvious that we dismiss it with the remark that, if such insinuations could be permitted or were justifiable in any event, they come with an ill grace from the source of the delays to legislation during the former part of this session, and the entire cessation thereof at the present.

When it is considered that the Governor has been absent from his post of duty during the present portion of our session until within the last twenty-four hours, and that members of his political party, (who render to his commands the most abject obedience) repeatedly seceded from the Senate during the winter session, and have given a quorum of but two days and one-half during the summer continuation thereof, the suggestion that the General Assembly have failed in the performance of their duties deserves only our contempt.

Earnestly protesting against this arbitrary and illegal act of the Governor, and insisting that the General Assembly has still a legal existence, and has neither been adjourned nor constitutionally dissolved, we ask that this, our protest, may be entered on the journals of the respective houses.

SENATORS.

William Berry,  
Israel Blanchard,  
William H. Green,  
Hugh Gregg,  
Colby Knapp,  
John T. Lindsay,  
Albert C. Mason,

Samuel Moffat,  
W. A. J. Sparks,  
Bryant T. Scofield,  
William H. Underwood,  
Horatio M. Vandever,  
Linus E. Worcester.

## REPRESENTATIVES.

M. W. Fuller,	S. W. Miles,
A. G. Burr,	E. W. Menard,
James B. Turner,	M. Brand,
Chas. A. Keyes,	T. B. Hicks,
C. A. Walker,	W. W. O'Brien,
Ambrose M. Miller,	Samuel A. Buckmaster,
D. W. Odell,	John Gerard,
S. P. Shope,	T. C. Gibson,
A. E. Wheat,	Jefferson A. Davis,
Lyman Lacey,	Wm. J. Brown,
C. F. Coffeen,	George Dent,
Wm P. Witt,	L. G. Reid,
James M. Sharp,	J. N. English,
P. Dougherty,	Elias Wenger,
Chas. E. Boyer,	James Holgate,
John Kistler,	James M. Epler,
M. B. Patty,	Henry M. Williams,
John O. Dent,	Jas. M. Washburn,
H. K. Peffer,	James H. Smith,
John T. Springer,	Jesse R. Ford,
William Watkins,	John W. Wescott,
Scott Wike.	C. S. Conger,
John W. Merritt,	Perry A. Armstrong,
Reuben Roessler,	John G. Graham,
John Monroe,	James M. Heard,
John Ten Broek,	Milton M. Morrill,
J. S. Busey,	Joseph Sharon,
Thomas B. Cabeen,	R. H. Cann.

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Senate Journal June 2<sup>d</sup> 1863

Senate met pursuant to adjournment at 10 o'clock  
A.M. S<sup>r</sup> Governor Francis A Hoffman presiding.

Mr Dushnell presented the following resolution which was  
read.

Resolved by the Senate the House of Representatives  
concurring therein, that on Wednesday the 10<sup>th</sup> inst  
the Senate and the House of Representatives will adjourn  
 sine die.

On motion of Mr Underwood the Senate adjourned  
at 2 o'clock P.M.

Monday June 8<sup>th</sup> 1863

10 o'clock A.M.

Senate met pursuant to adjournment.

Prayer by the Rev Mr Hall

x x x x x  
Mr Dushnell's resolution for adjournment on Wed-  
nesday next was taken up.

Mr Mack moved to amend by inserting at 12 o'clock  
which was accepted.

Mr Mason moved to amend by inserting the 16<sup>th</sup> inst  
at 12 o'clock on which amendment the yeas and  
nays were ordered and appeared as follows Yeas 4  
Nays 17.

The question recurring on the motion to adjourn on  
Wednesday next at 12 o'clock a.m.

Mr Vandever moved to amend by inserting 6 o'clock  
this day which amendment was adopted.

The question recurring on the resolution as amended, the  
yeas and nays were demanded and appeared as follows,  
yeas 14 nays 7.

So the Senate agreed to adjourn this evening at 6  
o'clock

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Monday June 8th 1863

3 o'clock P.M.

Senate met pursuant to adjournment  
a message from the House of Representatives by J. B. =  
Harmon Clerk.

Mr Speaker: I am instructed by the House of Rep-  
resentatives to inform the Senate that they have concurred  
with the Senate in the passage of the following resolution  
Resolved by the Senate the House of Representatives  
concurring therein, that this General Assembly will  
adjourn sine die on Monday June 8th 1863 at 6 o'clock  
P.M. with an amendment thereto as follows:

Strike out June 8th 1863 at 6 o'clock P.M. and insert  
June 22d 1863 at 10 o'clock a.m. and I am respectfully  
directed to respectfully ask the concurrence of  
the Senate in the passage of the resolution as amended

x x x x x x x

On motion of M<sup>r</sup> Ward the House message in relation to the resolution for adjournment was taken up.

The question being on concurring in the amendments of the House it was decided in the negative as follows, Yeas 11. Nays 12.

A message from the House of Representatives by M<sup>r</sup> Springer Asst. Clerk. M<sup>r</sup> Speaker: I am instructed by the House of Representatives to inform the Senate that they have passed the following resolution viz: Whereas the House desires to recede from its action taken this day in amending and adopting the Senate resolution in relation to adjournment. Therefore Resolved that the Honorable Senate is hereby requested to return said resolution as amended by the House for reconsideration

x x x x x x  
M<sup>r</sup> Ward moved to adjourn, and on this motion the yeas and nays were demanded and appeared as follows. Yeas 12, Nays 10. So the Senate adjourned

Tuesday June 9<sup>th</sup> 1863 10 o'clock a m  
Senate met pursuant to adjournment. Prayer was offered by Rev M<sup>r</sup> Grand.

Reading of the journal was commenced when, on motion of M<sup>r</sup> Lindsay the further reading of the journal was dispensed with

M<sup>r</sup> Knapp from the Committee on Township Organization and Counties reported back the bill for an act making it the duty of the County Court of Logan County to

build a Bridge across Salt Creek in said County  
and the Bill was ordered to a third reading  
A message from the House of Representatives by Mr.  
J D Harmon Clerk: Mr. Speaker: I am instructed  
by the House of Representatives to inform the Senate  
that they have passed Bills of the following titles  
viz: An act to incorporate the Wilmington Mining  
and Manufacturing Company.

Bill for an act to incorporate the Chicago Bar  
Gravers Association.

An act authorizing the Supervisors of Kendall  
County to issue County Bonds in certain cases,  
and I am directed to respectfully ask the con-  
currence of the Senate in the passage thereof

J D Harmon Clerk  
A message from the House of Representatives by Mr.  
J D Harmon Clerk: Mr. Speaker: I am instructed  
by the House of Representatives to inform the Senate  
that they have concurred with the Senate in the  
passage of a bill of the following title viz:

A Bill for an act to incorporate the Directors of  
the Naperville Graded School.

A message from the House of Representatives by  
Mr John D Harmon Clerk.

Mr. Speaker: I am instructed by the House of  
Representatives to inform the Senate that they  
have passed a bill of the following title viz:

A Bill for an act to empower the Quincy & Toledo



Railroad Company to extend its Railroad to the  
Mississippi River at Quincy, and I am directed to  
ask the concurrence of the Senate in the passage  
thereof

J. I. Harmon Clerk

Mr. Gurn moved to refer the bill for an act  
in relation to claims and accounts allowed by the  
Army Auditors Board against the State to the  
Committee on Public Accounts and Expenditures  
which was agreed to.

Mr. Mack moved to adjourn until 10 o'clock  
tomorrow morning, and on this motion the  
yeas and nays were demanded, and appeared  
as follows. Yeas Sumner Mack

Nays, Barry, Blanchard, Gurn, Gregg  
Knapp, Lindsay, Mason, Moffatt, Ogden, Sparks  
Schofield, Underwood, Vanduser, Worcester  
Ayes 2 Nays 14.

Mr. Blanchard moved a call of the Senate which  
was ordered and sixteen members were found  
to be present and the Sergeant-at-arms was in-  
structed to bring in absent members.

On motion of Mr. Gurn, Senate adjourned

Tuesday June 9<sup>th</sup> 1863 3 o'clock P.M.

Senate met pursuant to adjournment.

On motion of Mr. Mason of Knox, Senate adjourned

Wednesday June 10<sup>th</sup> 1863

10 o'clock A.M.

Senate met pursuant to adjournment.

Journal of yesterday's proceedings was read and approved.

On motion of Mr. Mack a call of the Senate was ordered and fourteen Senators were found to be present.

The Sergeant at arms was directed to summon Absentees.

On Motion of Mr. Green further proceedings under the call were dispensed with.

Mr. Scofield from the Committee on Public Corporations, by leave reported back the bill for an act to incorporate the Garden City Gas Light and Coke Company and recommended its passage, and the bill was ordered to a third reading.

Mr. Scofield from same Committee reported back a bill for an act to incorporate the Erving Women's Refuge of Chicago, and recommended its passage and the bill was ordered to a third reading.

Mr. Schofield from same Committee reported back bill for an act to incorporate the Muscatine Ferry Turbine and Bridge Company and recommended its passage, and the bill was ordered to a third reading.

Mr Schofield from same Committee reported back a bill for an act to authorize the building and extension of Horse Railways in the City of Chicago, and recommended its passage, and the bill was ordered to a third reading.

Mr Scofield from same Committee reported back a bill for an act to incorporate the Engineers, Servolent Association of the City of Aurora and recommended its passage, and the bill was ordered to a third reading.

Mr Scofield from the same Committee reported back a bill for an act entitled an act to amend a Charter of a town therein named, and recommended its ~~passage~~ adoption and the bill was ordered to a third reading.

Mr. Scofield from same Committee reported back a bill for an act to confirm the election held to adopt or reject the City Charter of City of Shawarstown with amendments, which amendments were adopted and the bill ordered to a third reading.

Mr. Worcester from the committee on Enrolled and Engrossed bills, reported as correctly enrolled, bills of the following titles to wit:

An act to incorporate the Peoria Pekin and Jacksonville Railroad Company.

An act in relation to Masters in Chancery

An act to incorporate the Wabash Railway Company

June 10<sup>th</sup> 1863.

Mr. Underwood from the Judiciary Committee reported back a bill for an act to amend the practice in relation to review and recommended its passage, and the bill was ordered to a third reading.

Mr. Lynn from Committee on Judiciary reported back a bill for an act to amend Chapter Seventy-nine of the Revised Statutes entitled "Partitions" with a substitute which substitute was adopted and the bill ordered to a third reading.

The Speaker read the following pronouncement to from the Governor.

State of Illinois

Executive Department

To the General Assembly of the State of Illinois  
Whereas on the 8<sup>th</sup> day of June A.D. 1863 the Senate adopted a joint resolution to adjourn sine die on said day at 6 o'clock P.M. which resolution on being submitted to the House of Representatives on the same day, was by them amended by substituting the 22<sup>d</sup> day of June and the hour of 10 o'clock A.M. which amendment ~~the~~ the Senate thereupon refused to concur in.

Whereas the Constitution of this State contains the following provision to wit: Section 13. Art. IV. In case of disagreement between the two Houses with respect to the time of adjournment the Governor shall have power to adjourn the General Assembly to such

"time as he thinks proper provided it be not to a period beyond the next constitutional meeting of the same"

Whereas I fully believe that the interests of the State will be best subserved by a speedy adjournment, the past history of the present Assembly holding out no reasonable hope of beneficial results to the Citizens of the State, or the army in the field from its further continuance.

Now therefore in view of the existing disagreement between the two houses with respect to the time of adjournment, and by virtue of the power vested in me by the Constitution as aforesaid I Richard Yates Governor of the State of Illinois, do hereby adjourn the General Assembly now in Session, to the Saturday next succeeding the first Monday in January A D 1865 (one thousand Eight hundred and Sixty five)

Given at Springfield this 10<sup>th</sup> day of June A D 1863.

Rich. Yates  
Governor.

The Speaker having vacated the Chair, on motion of Mr Perry, Mr Underwood was called to the Chair. Mr Schofield moved a call of the Senate which was ordered and Eight Senators were found to be present.

On motion of Mr Gurn further proceedings under the call were dispensed with

Mr Gurn moved a call of the Senate which was ordered and twelve Senators were found to be present and the Sergeant at arms was directed to bring in the numbers.

On motion of Mr Barry, further proceedings under the call were dispensed with

A message from the House of Representatives by J Q Harmon its clerk.

Mr Speaker: I am instructed by the House of Representatives to inform the Senate that they have passed the following resolution viz:

Resolved that a Committee of five from the House be appointed by the Chair to confer with a Committee of three from the Senate on the bill for the relief of Illinois Soldiers, and that the following Committee has been appointed on the part of the House viz: Messrs Burr, Lake, Fuller, Springer and Sharp, and I am directed to respectfully ask the appointment of a Committee of Conference on this subject on behalf of the Senate

On motion of Mr Underwood the resolution of the House was concurred in, and Messrs Gurn, Underwood and Mack were appointed on the part of the Senate.

A Message from the House of Representatives by Mr. Burr, a member. Mr. Speaker: I am instructed by the House of Representatives to inform the Senate that they have passed joint resolution as follows. Whereas the House of Representatives is without a quorum for the transaction of business, an attempt has been made irregularly and unconstitutionally as we deem by his Excellency Gov. Yates to prorogue the General Assembly, therefore Resolved by the House of Representatives, the Senate concurring that a Committee of three from the House be appointed to act with a Committee to be appointed by the Senate to prepare an address to the people stating why we are not engaged in transacting the legitimate business for which we were elected. And the House has appointed as said Committee on this part Messrs Burr, Fuller and Turner, and I am requested to ask the concurrence of the Senate in the passage thereof.

On motion of Mr. Gunn the House message was taken up and concurred in.

Mr. Lindsay offered the following resolution, which was adopted under a suspension of the rules viz: Resolved that a Committee of two be appointed in Senate to confer with three from the House in relation to the proclamation from the Governor proroguing the General Assembly. The Chair appointed Messrs Lindsay & Sparks, as said Committee. On motion of Mr. Vandusen, Senate adjourned til 3 o'clock P. M.

Wednesday June 10<sup>th</sup> 1863.

3 o'clock P.m.

Senate met pursuant to adjournment  
On motion of Mr Gurn a call of the Senate was  
ordered and thirteen Senators answered.  
Mr Gurn from the joint committee of conference upon  
the bill for the relief of sick and wounded Soldiers  
presented the following report, which was accepted  
To the Hon Speaker of the Senate, The undersigned  
appointed a committee to confer with a committee  
from the House of Representatives upon their disa-  
greement touching a bill for an act for the relief  
of sick and wounded Soldiers would report that  
said joint committee recommends that the House  
concur in the amendments of the Senate

(Signed) W<sup>m</sup> Gurn

W<sup>m</sup> Underwood <sup>7</sup> Com.

A message from the House of Representatives by J Q =  
Harmon Clerk, Mr Speaker: I am instructed by  
the House of Representatives to inform the Senate  
that they have adopted the following joint resolu-  
tion viz: Whereas the Committee of conference of the  
Senate and House of Representatives upon the bill  
for the relief of the sick and wounded Illinois Soldiers  
have agreed upon the substitute passed by the  
Senate, and whereas both Houses of this General  
Assembly are without a quorum by reason of the  
Republican members absenting themselves from their



Seats after the attempt of the Governor by message to adjourn this General Assembly. Therefore be it resolved by the House of Representatives, the Senate concurring herein, that the Republican members of both Houses be and they are hereby requested to return to their respective seats thereby giving a quorum to both Houses and insuring the passage of the bill for the relief of the sick and wounded Soldiers of Illinois and I am directed to respectfully ask the concurrence of the Senate in adoption of the same.

Mr Lindray moved to take up the House message just received, which was agreed to.

On motion of Mr Lindray the resolution was unanimously concurred in.

A message from the House of Representatives by Mr Muller, a member. Mr Speaker: I am directed by the House of Representatives to inform the Senate that they have passed the following protest and have ordered it to be spread upon the journal, and I am instructed to respectfully ask the concurrence of the Senate in the same.

(Here is inserted the protest for which see House Journal)  
On motion of Mr Gunn, the House message just received was taken up and the protest accompanying it adopted.

On motion of Mr Lindray Senate adjourned till tomorrow at nine o'clock.

Thursday June 11<sup>th</sup> 1863

Senate met pursuant to adjournment.

On motion of Mr Fuller the House at 2 o'clock and  
20 minutes P M June 23<sup>d</sup> just adjourned until  
tomorrow morning at 9 o'clock

Wednesday morning June 24<sup>th</sup> 1863.

The House met pursuant to adjournment  
On motion of Mr Fuller the reading of the  
Journal was dispensed with.

A message from the Senate by Mr Mayfield their  
Secty. Mr Speaker: I am instructed by the Senate  
to inform the House of Representatives that they  
have adopted the following joint resolution  
viz: Resolved by the Senate, the House of Rep-  
resentatives concurring herein, that a joint  
Committee of one on the part of the Senate and  
two on the part of the House of Representatives  
be appointed to wait on the Governor and inform  
him that the General Assembly is now ready to  
adjourn for the recess and ask him if he has  
any further communications to lay before them  
And I am instructed to respectfully ask the  
Concurrence of the House in the adoption thereof.

M Mayfield

Secretary Senate

On motion of Mr Miller the joint resolution  
contained in said Senate message was taken up  
and on motion of Mr Miller the House concurred

in said joint resolution

The Speaker appointed Messrs Fuller & Keyes as said Committee on the part of the House to wait on the Governor.

Mr Fuller submitted the following joint resolution. Resolved by the House of Representatives the Senate concurring herein. That the two Houses of the General Assembly at 10 o'clock A.M. this day take a recess until the Tuesday after the first Monday of January A.D. 1864 at 10 o'clock A.M. and the question being put, Will the House agree thereto? it was decided in the affirmative.

On motion of Mr Miller resolved unanimously that we hereby tender our thanks to the Honorable Speaker of this House for the faithful, able, energetic courteous and impartial manner in which he has presided over our deliberations during the summer portion of our Session.

On motion of Mr Fuller Resolved that the thanks of this House are hereby tendered to the Hon W<sup>m</sup> H Swift for the promptness of his response to the communication of the House in reference to the Leavitt claim, and that he is entitled to the gratitude of the people of this State for the ability and success with which he has prosecuted suit against the parties instrumental in the allowance of the claim aforesaid.

On motion of Mr Fuller Resolved that the  
Committee on Finance be and they are hereby  
authorized to sit during the recess with power  
to send for persons and papers and to prosecute  
their investigations into the disposition of the  
proceeds of the sale of Canal bonds as hereto-  
fore ordered by the House.

On motion of Mr Miller the House took a recess  
until the Committee to wait upon the Governor  
should be ready to report.

The Committee having returned, the Speaker  
called the House to order.

On motion of Mr Miller, Resolved by the  
House of Representatives that the Clerk of the  
House be required to keep in his possession  
or under his care the Journals, papers &c  
of this body until its next meeting.

Mr Fuller from the special Committee to wait  
upon the Governor submitted the following report  
viz: The special Committee appointed to wait upon  
the his excellency Governor Richard Yates and  
ask if he had any further communications to  
lay before the General Assembly, respectfully report  
that they have waited upon his Excellency the  
Gov. and asked him if he had any further com-  
munications to make to the General Assembly, and  
his Excellency thereupon informed the Committee  
that he had no communication to make to

this body & that he did not recognize the legal existence thereof.

The said report was received and the Committee discharged from the further consideration of the subject.

On motion of Mr. Keyes a Committee of two was appointed to inform the Senate that the House was ready to adjourn.

The Speaker appointed as said Committee Messrs Keyes and Miller.

A message from the Senate by Mr. Mayfield Secy.  
Mr. Speaker: I am instructed by the Senate to inform the House of Representatives that they have concurred with the House of Representatives in the adoption of the following joint resolution Vizi: Resolved by the House of Representatives, the Senate concurring therein that the two Houses of this General Assembly at 10 o'clock A.M. this day take a recess till Tuesday after the 1<sup>st</sup> Monday of January A.D. 1864 at 10 o'clock A.M.

Message from the Senate by Mr. Mayfield Secy.  
Mr. Speaker: I am instructed by the Senate to inform the House of Representatives that the Senate is now ready to adjourn.

Mr. Mayfield Secy.  
and thereupon the House of 10 o'clock A.M.

having arrived, Mr Speaker Ducketwartin announced  
that, in pursuance of the joint resolution adopted  
this day, the House would now take a recess until  
the Tuesday after the first Monday of January  
A D 1864 at 10 o'clock a m.

So, the House of Representatives at 10 o'clock  
a m took a recess until the Tuesday after the  
first Monday of January A D 1864 at 10 o'clock  
a m.

Senate Journal

June 23<sup>d</sup> 1863. 3 o'clock P.m.

The Speaker pro tempore the Senator from St. Clair. W. Underwood having retired from the Chair on motion of W. Lindsay the Senator from Peoria. W. Knapp, the Senator from Logan was elected Speaker pro tempore and thereupon took the Chair.

On motion of W. Lindsay the Senate adjourned until tomorrow morning at nine o'clock.

Senate Journal

June 24<sup>th</sup> 1863. 9 o'clock A.M.

Senate met pursuant to adjournment.

On motion of W. Lindsay the Senator from Logan W. Knapp was elected Speaker pro tempore who thereupon took the Chair.

The journal of yesterdays proceedings was read and approved.

W. Lindsay of Peoria offered the following joint resolution which was adopted under a suspension of the rules. viz: Resolved by the Senate (the House of Representatives concurring herein) that a joint

Committee of one on the part of the Senate and two on the part of the House of Representatives be appointed to wait on the Governor & inform him that the General Assembly is now ready to adjourn for the recess & ask him if he has any further communications to lay before them.

The Speaker appointed Senator Lindray of Peoria as a member of the Committee on the part of the Senate to wait on the Governor as per foregoing joint resolution.

A message from the House of Representatives by Mr. Springer Clerk.

Mr. Speaker: I am instructed by the House of Representatives to inform the Senate that the House of Representatives has passed the following joint resolution viz: Resolved by the House of Representatives the Senate concurring herein, that the two Houses of the General Assembly at 10 o'clock a m this day take a recess until the Tuesday after the first Monday of January A D 1864 at 10 o'clock a m. and I am instructed to respectfully ask the concurrence of the Senate in the passage thereof.

I am further instructed to inform the Senate that the House has concurred with the Senate in the passage of the following joint resolution viz: Resolved by the Senate the House of Representatives concurring herein that a joint committee of one on the part of the Senate and two on the part



of the House of Representatives be appointed to wait on the Governor & inform him that the General Assembly is now ready to adjourn for the recess and ask him if he has any further communications to lay before them, and that the House has appointed Messrs Fuller & Keyes as said Committee on their part.  
W<sup>m</sup> Springer asst CLK.

Mr Lindray from the Committee appointed to wait on the Governor submitted the following report viz:

I hereby respectfully report that the joint Committee of this General Assembly have waited on the Governor in obedience to the joint resolution of both Houses and he is pleased to inform us that he has no communications to lay before this body, and that further he does not recognize the legal existence of this as a legislative body.

On motion of Mr Lindray House Message in relation to mess was now taken up and was concurred in.

Mr Lindray offered the following resolution viz:

Resolved by the Senate that the Secretary of the Senate be instructed to keep in his possession or under his care the journals, papers &c of this body until its next meeting.

On motion of Mr Lindray the rules were suspended and the resolution was adopted.

Messrs Keyes & Miller, members of committee on the part of the House informed the Senate that the House was now ready to take recess until Tuesday after the first Monday in January 1864.

On motion of Mr Lindsay Senate adjourned until Tuesday after 1<sup>st</sup> Monday in January 1864 at 10 o'clock a.m. in pursuance of joint resolution hitherto passed.

Attest

The People of the State of Missouri

in red

Charles A. Keyes

Secy. R. Dabbs

Filed Nov. 13, 1863,  
St. Johnston City

The People of the State of  
Illinois ~~vs~~ vs  
Charles A. Keyes

vs

Jesse K. Dubois,  
Auditor of Public Accounts

Original

Filed Nov. 10-1863.  
N. Johnston *clerk*

To Jesse K. Dubois

auditor of Public accounts  
of the State of Illinois

You will take notice that I shall apply in and before the Supreme Court of Illinois, to the Judges thereof, at Mount Vernon in the first Grand Division, on the Tuesday after the second Monday of November, A.D. 1863, at 9 o'clock a.m. or as soon thereafter as counsel can be heard, for an alternative writ of mandamus upon you, according to the prayer of the following petition, which I shall then and there file, and upon which said application will be made.

Springfield,

October 22<sup>nd</sup> 1863.

Chas. H. Keyes, Relator

COPYED

# SUPREME COURT OF ILLINOIS,

FIRST GRAND DIVISION,

NOVEMBER TERM, A. D. 1863. •

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*To the Honorable the Judges of the Supreme Court of the State of Illinois :*

The People of the State of Illinois, upon the relation of *Charles A. Keyes* give the Honorable the Judges of the Supreme Court of Illinois to understand and be informed that the said relator was duly elected a member of the House of Representatives of the twenty third General Assembly of said State of Illinois for the *20th* Representative District of said State, on the 4th day of November, A. D. 1862, and was duly qualified and took his seat in that body on the first Monday of January, A. D. 1863; that said General Assembly was in session from the said first Monday of January, A. D. 1863, until the *14th* day of February, A. D. 1863, when, in pursuance of a joint resolution to that effect theretofore passed by both Houses, it took a recess until the Tuesday after the first Monday of June, A. D. 1863, when it resumed its session, and continued the same until the 24th day of June, A. D. 1863, on which day, in accordance with a joint resolution of both Houses to that effect, it took a recess until the Tuesday after the first Monday of January, A. D. 1864, as herein-after set forth.

And the people aforesaid, upon the relation of said *Charles A. Keys* give the Honorable the Judges of the Supreme Court further to understand and be informed, that, on the 2d day of June, A. D. 1863, while both branches of the General Assembly were in session, Mr. Bushnell, the Senator from La Salle, introduced in the Senate a joint resolution that the General Assembly adjourn *sine die*, on the 10th day of June, 1863, which was laid over under rule 43 of the Senate, that, "All resolutions presented to the Senate shall lie one day on the table, unless otherwise ordered," and no further action was taken thereon until in the forenoon of June 8th, 1863, when the resolution was called up, and after being amended so as to read "*Resolved*, by the Senate, the House of Representatives concurring therein, That this General Assembly will adjourn *sine die*, on the 8th inst., at six o'clock P. M.," it was passed by the Senate and a message of such action was delivered by the Secretary of the Senate to the House of Representatives, during their forenoon session of that day. The House of Representatives adjourned until two o'clock P. M., and immediately after the House was called to order, at the said hour of two o'clock, the said message from the Senate was taken up, and upon consideration of the resolution, the same was amended by striking out "8th," and inserting in lieu thereof "22d," and striking out "6 o'clock, P. M.," and inserting "10 o'clock A. M.," and then passed by the House of Representatives as amended, which action was immediately, on the assembling of the Senate, at 3 o'clock P. M., reported by message to the Senate, and as soon as the message was delivered, the Senate took up the same and the question being, shall the Senate concur in the amendment of the House, the vote was taken by yeas and nays, when the question was decided in the negative, as follows, to wit:

*Yeas*:—Berry, Blanchard, Gregg, Green, Knapp, Lindsey, Mason, Moffett, Ogden, Vanderveer, and Worcester.—11.

*Nays*:—Addams, Allen, Bushnell, Dummer, Funk, Lansing, Mack, Peters, Pickett, Richards, Schofield, and Ward—12;

And that during the afternoon session on the said 8th day of June, the House of Representatives passed the following resolution, to wit:

“*Whereas*, The House desires to recede from its action taken this day, in amending and adopting the Senate resolution in relation to adjournment, therefore,

“*Resolved*, That the Honorable Senate is hereby requested to return said resolution as amended, to the House, for re-consideration,” and the House notified the Senate of the passage thereof by a message delivered by the Clerk of the House immediately after (and before any intervening business had occurred) the vote of the Senate to non-concur in the amendment of the House, and after the delivery of such message, there were no other proceedings in either branch of the General Assembly, or messages sent or delivered, on the question of an adjournment *sine die*, on that or any other subsequent day; nor had there been any before that day, and at the hour of four o'clock P. M. of June 8th aforesaid, the Senate adjourned until 10 o'clock, the next morning. The House adjourned at 5 o'clock P. M., until 7 o'clock P. M., when it again convened and adjourned at nine o'clock 35 minutes P. M., until nine o'clock June 10th, in pursuance of a prior resolution.

The people aforesaid, upon the relation of the said *Charles*  
*A. Hayes* give the Honorable the Judges of the Supreme Court further to understand and be informed, that the Senate, in pursuance of adjournment, met at ten o'clock A. M., the 9th day of June, and proceeded as usual with business: and after the reading of the journal, Senator Knapp reported from the committee on township organization, a bill in relation to a bridge across Salt Creek, which was ordered to a third reading. Several messages were received from the House of Representatives. Senator Green moved to refer the bill for an act in relation to claims allowed by the army board, to the committee on public accounts and expenditures, which was agreed to; when Senator Mack moved to adjourn until ten o'clock next morning, on which the yeas and nays were demanded, when 2

voted aye, and 14 nay. Senator Blanchard moved a call of the house, when 16 Senators answered, and the Sergeant-at-arms was instructed to bring in absent members, and on motion of Senator Green, the Senate adjourned until 3 o'clock P. M., at which hour the Senate met pursuant to adjournment, and on motion of Senator Mason adjourned until 10 o'clock next morning. That the Senate met pursuant to adjournment, at 10 o'clock June 10th, when the journal was read and approved, and the Senate proceeded with their usual business, in the course of which, bills were reported from several of the standing committees, and ordered to a third reading, and reports made by the committee on engrossed and enrolled bills, after which the Speaker of the Senate read the following communication, to wit:

“STATE OF ILLINOIS, EXECUTIVE DEPARTMENT.

“TO THE GENERAL ASSEMBLY OF THE STATE OF ILLINOIS:

“*Whereas*, On the 8th day of June, A. D. 1863, the Senate adopted a joint resolution to adjourn *sine die* on said day at six o'clock P. M., which resolution, upon being submitted to the House of Representatives on the same day, was by them amended by substituting the 22d day of June and the hour of 10 o'clock A. M., which amendment the Senate thereupon refused to concur in;

“*Whereas*, The Constitution of this State contains the following provision, to wit:

“‘SEC. 13, ART. IV. In case of disagreement between the two houses with respect to the time of adjournment, the Governor shall have power to adjourn the General Assembly to such time as he thinks proper, provided it be not to a period beyond the next constitutional meeting of the same.’

“*Whereas*, I fully believe that the interests of the State will be best subserved by a speedy adjournment, the past history of the present Assembly holding out no reasonable hope of beneficent results to the citizens of the State, or the army in the field, from its further continuance;



"Now, therefore, In view of the existing disagreement between the two houses in respect to the time of adjournment, and by virtue of the power vested in me by the Constitution aforesaid, I, Richard Yates, Governor of the State of Illinois, do hereby adjourn the General Assembly now in session, to the Saturday next preceding the first Monday in January, A. D. 1865.

"Given at Springfield, this 10th day of June, A. D. 1863.

(Signed)

"RICHARD YATES, GOVERNOR."

And after reading the same vacated the chair. And on motion of Senator Berry, Mr. Underwood, the Senator from St. Clair, was elected Speaker *pro tem.*, and on a call of the Senate, twelve Senators were found to be in attendance, when the Sergeant-at-arms was directed to bring in absent members, and afterwards the proceedings under the call were dispensed with, and a message received from the House, that they had appointed their part of a committee of conference on the bill for the relief of sick and wounded soldiers, and asking the Senate to concur, and appoint their part of said committee, and the Senate concurred in said resolution and appointed their part of said committee. A message was received from the House that they had passed a resolve that a joint committee be appointed to prepare an address to the people of the State, with the reasons why the members of the Legislature were not engaged in transacting the legitimate business for which they were elected, and had appointed their part of the committee, which resolution was taken up, concurred in, and the committee on the part of the Senate appointed, and then the Senate adjourned until 3 o'clock P. M., at which hour it met pursuant to adjournment, and on call of the Senate thirteen Senators answered; when Senator Green, from the joint committee of conference on the bill for the relief of sick and wounded soldiers, reported that the committee had agreed to recommend that the House concur in the amendments of the Senate. A message was then received from the House, on the passage of a joint resolution, which was concurred in by the Senate, and then another message was received that they had adopted a protest and ordered it spread upon the journal, and asked the concurrence of the Senate

in the same; and on motion of Mr. Green, the protest was taken up, adopted, and ordered to be entered on the journal of the Senate, and said protest was signed by thirteen Senators and fifty-six Representatives, and reads as follows, to wit:

### PROTEST.

Upon this 10th day of June, A. D. 1863, while the General Assembly were in session and engaged in the discharge of their constitutional duties, an attempt by the Governor of Illinois was made to dissolve this body; which attempt, illegal, unconstitutional, and outrageous as it is, must inevitably result in the cessation of any further legislation at this time.

The circumstances attending this monstrous and revolutionary usurpation of power, and the injurious consequences which must result to the people of the State, demand a brief statement on our part which we submit with confidence to the consideration of a discerning and candid public, whose rights have thus been ruthlessly invaded, and whose interests have been disregarded and trampled under foot.

The action of the Governor in this nefarious attempt to stop the legislation of the State is supposed to be based upon the following provision of the State constitution.

“ART. IV—SEC. 13. In case of disagreement between the two houses with regard to the time of adjournment, the Governor shall have power to adjourn the General Assembly to such time as he thinks proper, provided it be not to a period beyond the next constitutional meeting of the same.”

And the first question to be determined is, what is such a disagreement under the constitution as would justify the interposition of the Executive? Nor is the answer difficult to arrive at, since this point has been so well and thoroughly settled that it needs but its statement to determine the inquiry beyond cavil or contradiction. When one house amends the resolution or alters legislative action

of the other, as to the time of adjournment or any other subject, and the house proposing the resolution or action refuses to concur with the amendments so made, the amending house must be first informed of such non-concurrence, in order to recede and concur or take such other action in the premises as may tend to an agreement of both on the basis of compromise.

The amending house, being informed of non-concurrence in its action by the other, may either itself recede and concur, or adhere, and propose and appoint a committee of conference, which is the next step to be taken. And it is only when one house refuses to join in a committee of conference, or when such committee, having been appointed, fails to arrive at a common result, or, having so done, the same is not agreed on and adopted by both houses, that the disagreement spoken of in the constitution has been produced; and the usual parliamentary proceeding is to have two free conferences before final disagreement results. Both houses must be at a dead lock, without hope of or effort towards agreement, before Executive action can be invoked or legally taken. Were the rule otherwise, it would require the invariable agreement of each house to whatever the other chose to propose. And until this time it has never been questioned in Europe or this country that such was the rule.

Nor can the Executive take action, even where an actual disagreement exists, until officially informed thereof by both houses.

Tested by these principles, we present the facts in the present case, which will demonstrate the indefensible character of the proceeding which we reprobate and condemn.

*“Resolved by the Senate, the House of Representatives concurring therein, That this General Assembly will adjourn sine die on the 8th inst., at 6 o’clock P. M.”*

Which resolution was at once transmitted to the House, and, being taken up by that branch of the Legislature, was amended by the substitution of the 22d day of June instead of the 8th.

The resolution, being thus amended, was returned to the Senate for its action, whereupon that body refused to concur in the amendment.

The House was not then, and has not since been, officially informed of the non-concurrence of the Senate in the amendment in question, and no opportunity has as yet been afforded that body to recede from its previous action, if it so desired.

The regular parliamentary progression has not been observed; the House has not refused to recede and concur with the Senate in its action; no committees of conference have been proposed or appointed; and, in short, no disagreement has existed, or can be presumed as existing, in the premises.

Neither has the legal and official notification of a disagreement been laid before the Governor, as, indeed, it could not have been, since it was well known and understood that there was no such disagreement in fact.

We have thus briefly stated the position of affairs which the Governor of the great State of Illinois has made use of as a pretext for an arbitrary, illegal attempt to bring the deliberations of the General Assembly to a close.

By this action he has deliberately and designedly defeated the passage of measures of great public importance, and demanded by the exigencies of the times.

He has defeated the appropriation of one hundred thousand dollars for the gallant sons of Illinois who are bleeding and dying upon the battle-field and in the hospital, and whose terrible condition invites the sympathy of every human heart, and demands the earnest effort in their behalf of every citizen of the State on which they have shed imperishable glory. The bill for that purpose, already passed both houses, and pending simply upon a slight difference of opinion as to some of its details, in the lower house, which difference has now been happily removed, is defeated merely because the miserable partisanship of the Chief Executive, who usurps the unmerited title of the "Soldier's Friend," prevented him from consenting that a legislature having a majority of his political opponents should have the honor, as they would enjoy the privilege, of flying to the rescue of their gallant brethren.

He has defeated the bill for the sale of the coin in the treasury and the payment of our interest in treasury notes, saving hundreds of thousands to the people, which was on its final passage as the supporters of this action left the halls of legislation at the bidding of their master.

He has defeated the passage of the general appropriation bills already passed the Senate, and pending in the House and ready for passage, which the Senate had acted on without delay, and to which no obstruction was intended to be, would or could have been, interposed by the House.

He has defeated the printing of the report of the State Agricultural Society, an appropriation for which passed the House and was on its passage in the Senate, and the distribution of the appropriation for agricultural purposes made by the general government, and as yet unapplied to the ends for which it was intended, to the great detriment of the vast agricultural interests of Illinois, for whose benefit the measures were intended.

He has defeated the appropriation for the State Normal University, and the property will be sold under the existing judgments, and this noble institution be destroyed.

The memory of the great dead could not restrain him, and the appropriation for the erection of a monument to Douglas receives its death blow at his hands.

He has defeated the general and local legislation of the State, for much of which pressing necessity existed, and which was so fully matured as to require for its completion but slight farther action.

He has done all this without the shadow of a legal pretext, and in defiance of a well nigh universal public opinion.

Even partisanship affords no palliation for the pursuit of such a course, since no political measure has been pressed upon either branch of the Assembly during the recent period of its session. Which is the more guilty, the individual who proposes, or the wretched agents who carry into effect, an act so utterly indefensible, it is not for us to determine. It is sufficient that all the actors,

aiders and abettors of this scheme to block the wheels of government will receive the condemnation they deserve from an outraged people.

The manner in which this action was attempted to be taken deserves a passing notice. The statement by one branch of the government to a co-ordinate branch thereof, that its action has not been conducive to the public welfare, is disrespectful in terms, and an insult so obvious that we dismiss it with the remark that, if such insinuations could be permitted or were justifiable in any event, they come with an ill grace from the source of the delays to legislation during the former part of this session, and the entire cessation thereof at the present.

When it is considered that the Governor has been absent from his post of duty during the present portion of our session until within the last twenty-four hours, and that members of his political party, (who render to his commands the most abject obedience) repeatedly seceded from the Senate during the winter session, and have given a quorum of but two days and one-half during the summer continuation thereof, the suggestion that the General Assembly have failed in the performance of their duties deserves only our contempt.

Earnestly protesting against this arbitrary and illegal act of the Governor, and insisting that the General Assembly has still a legal existence, and has neither been adjourned nor constitutionally dissolved, we ask that this, our protest, may be entered on the journals of the respective houses.

SENATORS.

William Berry,  
Israel Blanchard,  
William H. Green,  
Hugh Gregg,  
Colby Knapp,  
John T. Lindsay,  
Albert C. Mason,

Samuel Moffat,  
W. A. J. Sparks,  
Bryant T. Scofield,  
William H. Underwood,  
Horatio M. Vandever,  
Linus E. Worcester.

## REPRESENTATIVES.

M. W. Fuller,	S. W. Miles,
A. G. Burr,	E. W. Menard,
James B. Turner,	M. Brand,
Chas. A. Keyes,	T. B. Hicks,
C. A. Walker,	W. W. O'Brien,
Ambrose M. Miller,	Samuel A. Buckmaster,
D. W. Odell,	John Gerard,
S. P. Shope,	T. C. Gibson,
A. E. Wheat,	Jefferson A. Davis,
Lyman Lacey,	Wm. J. Brown,
C. F. Coffeen,	George Dent,
Wm P. Witt,	L. G. Reid,
James M. Sharp,	J. N. English,
P. Dougherty,	Elias Wenger,
Chas. E. Boyer,	James Holgate,
John Kistler,	James M. Epler,
M. B. Patty,	Henry M. Williams,
John O. Dent,	Jas. M. Washburn,
H. K. Pepper,	James H. Smith,
John T. Springer,	Jesse R. Ford,
William Watkins,	John W. Wescott,
Scott Wike.	C. S. Conger,
John W. Merritt,	Perry A. Armstrong,
Reuben Roessler,	John G. Graham,
John Monroe,	James M. Heard,
John Ten Broek,	Milton M. Morrill,
J. S. Busey,	Joseph Sharon,
Thomas B. Cabeen,	R. H. Cann.

And thereupon the Senate adjourned until 9 o'clock the next morning when it met pursuant to adjournment.

The people aforesaid, upon the petition of the said *Charles*  
*A. Keyes* further give the Honorable the Judges of the  
 Supreme Court to understand and be informed, that on the morning

of June 10th, the House of Representatives met pursuant to adjournment and proceeded with its usual business, during the course of which a resolution for a committee of conference upon the bill for the relief of sick and wounded soldiers was adopted; a communication from the Governor in relation to the discharge of soldiers from the Marine Artillery was laid before the House, bills passed, bills introduced and referred, after which a bill for an act to provide for the payment of the interest upon the State debt, and for the sale of certain gold and silver coin, belonging to the State of Illinois, was taken up, when Mr. Lacy, of Mason, moved an amendment, pending which a message from the Governor was announced, in regard to which the following is the only entry in the journal: "A message from the Governor was announced by the doorkeeper and read, but the bearer of the message was not recognized by the Speaker," and thereupon motions were made to adjourn, and withdrawn, when a call of the house was made, and forty-four answering, further proceedings under the call were dispensed with, and a joint resolution passed for the appointment of a committee to prepare an address to the people, on the subject of the Governor's attempt to adjourn the General Assembly, and then a message was received from the Senate that they had concurred in the resolution for a committee of conference on the bill for the relief of sick and wounded soldiers, when the House adjourned until 2 o'clock P. M., at which hour the House met pursuant to adjournment, and the committee of conference on the bill for the relief of sick and wounded soldiers, reported a recommendation that the House concur with the amendments of the Senate, which was adopted; then a message was received from the Senate of concurrence in a resolution of the House, then a resolution was moved by Mr. Keyes, of Sangamon, and adopted, and thereupon the bill for the relief of sick and wounded soldiers was taken up, and on the question, shall the House concur with the Senate in its amendments, the yeas and nays were taken, when it appearing that 44 voted yea and none nay, which being less than a quorum, the bill failed for the want of a quorum; and then the protest hereinafter set forth, signed by thirteen Senators and fifty-six



Representatives as aforesaid, was submitted to the House and ordered to be spread upon the journal, which was done.

The people aforesaid, upon the relation of the said *Charles* *A. Keyes* give the Honorable the Judges of the Supreme Court further to understand and be informed that the journals of both branches of the General Assembly are silent as to any proceedings in either branch after the morning of the 11th day of June, as before recited, until the afternoon of June 23d, 1863, when at the hour of 3 o'clock P. M., the following entry appears on the journal of the Senate: "The Speaker *pro-tempore*, Mr. Underwood, having retired from the chair, on motion of Mr. Lindsay, the Senator from Peoria, Mr. Knapp, the Senator from Logan, was elected Speaker *pro-tempore*, and thereupon took the chair," when on motion, the senate adjourned to 9 o'clock the next morning, at which time the Senate met pursuant to adjournment, when the journals were read and approved, when a message was received from the House of Representatives that they had passed the following resolution, to-wit:

"*Resolved* by the House of Representatives, the Senate concurring therein, that the two houses of the General Assembly, at 10 o'clock A. M. this day take a recess until the Tuesday after the first Monday of January, A. D. 1864, at 10 o'clock A. M.," which was concurred in by the Senate, and then other resolutions were passed by the Senate, and among them the following, to-wit:

"*Resolved* by the Senate, the House of Representatives concurring herein, that a joint committee of one on the part of the Senate and two on the part of the House of Representatives, be appointed to wait on the Governor and inform him that the General Assembly is now ready to adjourn for the recess, and ask him if he has any further communication to lay before them." And Senator Lindsay was appointed a member of said committee on the part of the Senate, and immediately thereafter the Senate received a message from the House of Representatives that they had concurred in the passage of the same resolution, and appointed Messrs. Fuller and Keyes as their part of said committee, and thereafter Senator Lindsay

reported that the joint committee had waited on the Governor in obedience to the joint resolution, and that the committee were informed by his Excellency that he had no communications to lay before this body, and that he did not recognize the legal existence of this as a legislative body, and after the receipt of a message from the House of Representatives that they were now ready to adjourn for the recess, on motion the Senate adjourned until the Tuesday after the first Monday in January next, at 10 o'clock A. M., in pursuance of the joint resolution before passed; and further, that the following entry next after the protest appears on the journal of the House of Representatives, to-wit:

"On motion of Mr. Fuller, the House at 2 o'clock and 20 minutes P. M., June 23d inst., adjourned until to-morrow morning at 9 o'clock," and further, that at the hour last mentioned, on the 24th day of June, the House of Representatives met pursuant to adjournment, when the reading of the journal was dispensed with, and a message from the Senate received that they had passed the joint resolution aforesaid for the appointment of a joint committee to wait on the Governor, which, on motion of Mr. Miller, of Logan, was taken up and concurred in, when the Speaker appointed Messrs. Fuller and Keyes on said committee, then the House passed the joint resolution for a recess aforesaid, and then passed several resolutions on different subjects, when Mr. Fuller, from the joint committee to wait on the Governor, submitted the same report to the House that was made by Senator Lindsay from said joint committee to the Senate as aforesaid. A committee was then appointed to inform the Senate that the House was now ready to adjourn for the recess, and after receiving a message that the Senate was ready to adjourn, and the hour of 10 o'clock having arrived, Mr. Speaker Buckmaster declared the House of Representatives adjourned for a recess until the Tuesday after the first Monday of January, A. D. 1864, at 10 o'clock A. M., in pursuance of the joint resolution to that effect.

And the people aforesaid, upon the relation of the said

*Charles A. Keyes* give the Honorable the Judges

aforesaid further to understand and be informed, that all the facts as heretofore recited do appear on the journals of the respective branches of the twenty-third General Assembly of the State of Illinois, as they are hereinbefore recited, and that no other facts touching the question of adjournment *sine die* appear on the journals of the proceedings of the 8th day of June, or prior thereto, at the June meeting, and no other proceedings on the days subsequent to the said 8th day of June than are hereinbefore recited appear on the journals of the proceedings of said General Assembly. And further, that the journals of the proceedings of the 23d and 24th days of June do not show how many Senators or Representatives were present.

And the people aforesaid, upon the relation of the said *Charles A. Keyes* give the Honorable the Judges of this court aforesaid further to understand and be informed, that the said relator was in his seat and discharging his duties as a member of the House of Representatives of the General Assembly aforesaid, and in attendance on the sessions of that branch of the General Assembly on the 23d and 24th days of June, A. D. 1863, and that under and by virtue of Section 24 of Article III of the Constitution of the State of Illinois, he was and is entitled to the sum of one dollar for attendance on the session of said General Assembly on each of said days, and that the Speaker of the House of Representatives, Hon. Samuel A. Buckmaster, has granted his certificate under his hand, to the said relator, that he, said relator, is entitled to the *per diem* of two dollars for the two days attendance aforesaid, as prescribed by Section 25 of Article III of the Constitution aforesaid, which certificate is in the words and figures following, to-wit:

HALL OF THE HOUSE OF REPRESENTATIVES, }  
 SPRINGFIELD, JUNE 25th, 1863. }

I, Samuel A. Buckmaster, Speaker of the House of Representatives of the General Assembly of the State of Illinois, do hereby certify that there is due to *Charles A. Keyes* the sum of two dollars compensation as a member of the House of

Representatives, for services and attendance on the 23d and 24th days of June, 1863, at the regular session which commenced on the first Monday of January, A. D. 1863, being *per diem* allowance as claimed by him.

SAMUEL A. BUCKMASTER,  
*Speaker of the House of Representatives.*

And the people aforesaid, on the relation of said *Charles A. Keyes* give the Honorable the Judges of this court aforesaid further to understand and be informed that on the *22<sup>d</sup>* day of October, A. D. 1863, he, said relator presented the said certificate of the said Speaker to Jesse K. Dubois, Auditor of Public Accounts of the State of Illinois, and demanded of him to issue his warrant upon the Treasurer of the State of Illinois, as by law required, for the sum of two dollars *per diem* allowance for two days services and attendance as aforesaid, and the said Jesse K. Dubois refused to issue said warrant to said relator, and still does neglect and refuse so to do.

Wherefore the people aforesaid by the said *Charles A. Keyes* relator as aforesaid, pray that an alternative writ may be issued to the said Jesse K. Dubois, Auditor of Public Accounts, commanding him to return said writ by a day named therein with the causes why he fails and neglects to issue his warrant in favor of said relator for the sum of two dollars as aforesaid, and that such order may be made in the premises, upon a hearing, as to your Honors may seem meet, &c.

*M. M. Miller*  
*Counsel*

*Charles A. Keyes*  
*Relator.*

State of Illinois  
Sangamon County J.

Personally comes  
Charles A. Keyes and being duly  
sworn, on oath declares and  
says, that he is the relator in  
the foregoing petition named;  
that he has read the same  
and knows the contents thereof  
and, that the same is true in  
substance and in fact.

Sworn to & subscribed Charles A. Keyes  
before me this 22<sup>nd</sup> day  
of October A.D. 1863.

J. M. Turney  
Clerk Supreme Court

State of Illinois  
Sangamon County J.

Personally comes  
Charles A. Keyes, and being  
duly sworn, on oath declares  
and says that he did on  
this 22<sup>nd</sup> day of October  
A.D. 1863, serve the foregoing  
petition and notice upon Jesse  
K. Dubois auditor of Public  
accounts of the State of Illinois  
by delivering to said Dubois a  
true copy of said petition and  
notice, on the day and year  
aforesaid.

Sworn to & subscribed Charles A. Keyes  
before me this 22<sup>nd</sup> day of  
October A.D. 1863.

J. M. Turney  
Clerk Supreme Court

The People ex Rel. Thomas Harlep

vs

Ogias M. Hatch, Secretary of State &c.

Abstract of Returns.

II. The General Assembly did not pass the bill for an act to Incorporate the Wabash Railway, unless the following facts constitute such passage.

1. It was introduced & proceedings had so that on 22<sup>d</sup> Jan'y 1863, it was put on final passage in the Senate, but by some means unknown to respondent its contents were concealed from & unknown to a majority until long after.

2. Prior to that day another bill of same or similar title had been introduced in the Senate & when the bill in controversy was taken up for passage, false representations were made so as to be by a member of the Senate, so as to induce them to believe & they did believe that the bill taken up was the other bill, & thereby the reading at large was dispensed with, & 20 Senators voted for the bill on its passage.

3. The journals are not in his possession & are withheld from him & therefore he cannot state what entries are made on them, but he is informed & believes, that the votes of of the Senators as aforesaid are entered on the journal as in favor of the passage of the bill described in the alternative writ; but he is informed & believes that the fact was that a majority of the Senate voted in favor of such other bill & by reason of the misunderstanding created by the misrepresentations only was the entry so allowed to be made on the journal.

4. The bill after its passage in the Senate was by some person or means abstracted from the files, until about the time of its passage in the House.

5. The bill passed the House on the 8<sup>th</sup> day of June in the manner required by the Constitution.

6. The bill was enrolled, signed  
by the Secretary of the Senate, & by  
the Speaker of the N.R.; also by the  
Speaker of the Senate, with a  
statement that in his opinion  
it had passed the Senate under  
a misapprehension arising  
out of the statement of a Senator.

II. The enrolled bill so certified was pre-  
sented to the Governor on the 12<sup>th</sup> day of June  
for the purpose required by § 21 Art 4. of the  
Constitution.

1. This statement is made on informa-  
tion & belief and that he has no  
knowledge or official information  
of the time.
2. But a copy of the bill & veto message  
is made a part of the Return & which  
he says were received by him on  
the 25<sup>th</sup> Sept 63 & from there it ap-  
pears by an endorsement on the  
bill, that it was "Rec'd June 12. '63" &  
"Vetoed June 19. 1863" and by the state-  
ment in the message that it was  
received by the Governor June 12. 1863.
3. note. On p. 15 alternative writ it is alleged  
"That the record of the executive acts,  
as kept by his private Secretary, and



deposited in the office of the Secretary of State, shows that the Bill to incorporate the Wabash Railway Company was presented to the Governor for his approval, "but said record is silent in regard to the disposition of said bill."

There is no answer to this in the ~~Return~~.

III. The bill has not been approved or returned to the Senate with objections by the Gov. & more ten days have elapsed since it was presented to him.

IV. Sets out the facts claimed to constitute a disagreement as in the writ as they appear on the journals, except that the Return avers that there was not a quorum in the Senate on the 9<sup>th</sup> & 10<sup>th</sup> days of June.

V. There being a disagreement of which the Gov. was officially notified by the certificate of the Serjt Gov. Speaker of the Senate, the Governor on 10<sup>th</sup> June adjourned the General Assembly by the proclamation set out in the writ.

VII. When the proclamation was delivered, the members "acquiescing in said adjournment" all did all of them on said 10<sup>th</sup> day of June vacate their respective seats & both houses became & were closed & "the session there & these wholly ended," & since that time there has been no meeting of two thirds of either house, or any session of either of them.

1. On the 23<sup>d</sup> day of June two Senators & four representatives & no more, met & of their own motion & without any authority pretended to go through the proceedings of the 23<sup>d</sup> & 24<sup>th</sup> days of June mentioned in the writ.

2. They closed the same at 10 o'clock A. M. June 24<sup>th</sup>.

3. The said journals were fraudulently, wrongfully & willfully made up in manner & form alleged in the writ.

VII. The bill was not presented until after the close of the session, but was, as he is informed & believes presented on 12<sup>th</sup> day of June although he has no knowledge or official information of the time, & was examined by the Governor.

1. On 19<sup>th</sup> June decided to veto & set forth his objections in writing & delivered

the same to Leuit Gov. with directions  
to present to the Senate on the first  
day of the next meeting.

2. The bill remained in the custody of  
the Leuit Gov. until 25<sup>th</sup> Sept. when  
it with objections or vetos of the  
Gov. was placed by the Leuit Gov.  
in the hands of respondent for  
safe keeping until the next  
meeting, which he accepted for  
the sole purpose of keeping the  
same in a private & safe place  
& to re-deliver the same to said  
Hoffman or such person as the  
Gov. should direct to present to  
the Senate;

3. The Gov. has at no time communi-  
cated with this respondent with  
respect to the bill or veto; nor  
has he directed him to authenticate  
the same as having become  
a law.

4. The bill has never been filed  
or deposited in the office of the  
Secretary as a law; she has no  
knowledge or official informa-  
tion whether the bill has ever  
become a law or not.

The People called  
in

C. M. Hatch Secy.  
Abstract of Returns.

1863

State of Missouri 1<sup>st</sup> Grand Division  
Supreme Court November Term 1863.

The People & Rel. of  
Thomas Harlep

vs

Ozias M. Hatch Secretary  
of the State of Missouri

Mandamus.

The said People of the State of Missouri on the relation of the said Thomas Harlep, absolutely and unequivocally denying the truth of the statements in said Return of the said defendant so far as the same ~~relates~~ alleges or imputes fraud or misrepresentation in the passage of the said Act to Incorporate the "Webster Railway Company by, ~~via~~ or through the General Assembly, or either branch thereof, and in the making of the journals aforesaid of the proceedings on the 23<sup>d</sup> & 24<sup>th</sup> days of June, yet for the sole purpose of avoiding the delay that would follow the making an issue of fact herein, do come by their attorneys and say that the matters said Return and the matters and things therein set forth are

insufficient in law to bar the said  
People from having and obtaining  
their peremptory writ against the  
Respondent commanding him to  
make and certify a copy &c. of said  
Act to incorporate the Wobash Railway  
Company as directed in said al-  
ternative writ, &c. and this they  
are ready to verify, Wherefore they  
pray &c.

A. W. Arrington

J. Lyle Dickey

of Counsel

W. C. Gandy &

M. W. Fuller Attys.

for Relator

29

The People of Kel.  
Thomas Harlep

vs,

Ozias M. Hatch  
Secretary of the  
State of Missouri,

Dem. to Return.

Filed Nov. 14. 1863.

N. Johnston Clerk

IN THE SUPREME COURT OF ILLINOIS.

FIRST GRAND DIVISION, ----- NOVEMBER TERM, 1863.

The People ex Rel. Keyes, }  
VS } Mandamus.  
Jesse K. Dubois, Auditor. }

Additional points & authorities for Relator by W. C. Goudy.

I. The Relator was entitled to a compensation of \$1 per day. Const. Art. 3—§ 24.

The per diem allowed shall be certified by the Speaker, entered on the journal and published at the close of the session. § 25.

No money shall be drawn from the Treasury, but in consequence of appropriations made by law. § 26.

The appropriation was made by the General Assembly of 1861, for the payment of the members of the Legislature in 1863.

Laws 1861. p. 33

The evidence to be furnished the Auditor is the certificate of the Speaker; & upon presentation thereof "he SHALL draw his warrant upon the revenue fund."

Laws 1861 p. 24. § 2.

The duty imposed is imperative and the Auditor is without discretion. The certificate is conclusive. He can only determine that it is the certificate of the Speaker, and, if the legislature was in session at the time named, draw his warrant.

II "The Executive power of the State shall be vested in a governor."

Const. Art. 4. § 1.

"There shall be chosen by the qualified electors throughout the state an auditor of public accounts, who shall hold his office for the term of four years "and whose duties shall be regulated by law."

Const. Art. 4. § 23.

The Auditor is not the Executive, nor a part of the Executive authority.

He is an independent officer whose duties are fixed by law, some of which are ministerial, some clerical, some financial in auditing accounts, some judicial, some executive, but all alike fixed by the Statutes of the State.

This court has decided that they will not by mandamus compel the Governor to perform his duty because he constitutes the Executive Department.

People vs Bissel 19 Ill. 229.

In that case the Governor is held to constitute the Executive department.

But at the same term a writ was allowed in one case against the Auditor & in another against the Secretary.

It has been the practice in this state since the organization of the Government to allow the writ against the Auditor. If he is beyond the reach of the court, so is the Secretary, Treasurer, Superintendent of Public Instruction, Mayors of cities, county treasurers, school commissioners & every officer whose duties properly appertain to the executive department, as contradistinguished from the legislative and judicial.

Such a rule would limit the use of the writ to the officers in the judicial department.

This question has been expressly decided in the case of Page 21 Auditor vs Hardin 8 Ben. Monroe 648.

The court in that case ordered a peremptory mandamus against the State Auditor to draw his warrant in favor of the Relator for his salary as Secretary of State. This point was made. They say "By the writ of mandamus it (the court) may coerce a ministerial officer, though of the executive department, to the performance of a legal duty for the effectuation of a legal right." p. 637.

That case in ALL its features is conclusive of this, if the court is of the opinion there was not a termination of the session before the 24th day of June.



On the same point I refer to *Marbury vs Madison* 1 Cranch 168 / U.S. ex Rel. *Stokes vs Kendall* 12 Pet. 524. *State vs Chase*, Govr. 5 Ohio (N. S.) 528.

But the counsel for Respondent refer to a class of cases as to the issue of the writ by the Cir. Ct. of the Dist. of Columbia against the heads of departments under the President of the United States.

They do not apply to this case. None of the reasons there, exist here.

It is claimed that the fact that the demand is for a warrant to draw money out of the treasury is a good reason for refusal of the writ. That is not an objection to the jurisdiction over the Auditor, but goes to the policy of exercising the jurisdiction.

This writ is not a writ of right. If the court is to exercise discretion, what are the consequences in this case. To refuse the Relator is to make the legislative department dependent not on the executive department but on the Auditor. The same rule will apply to every member of the judiciary department.

It will enable the Auditor to lock up the treasury, or what is worse to open it only to those persons he may favor with his benign pleasure.

The case referred to: *Decatur vs Paulding*, 14 Peters 497, was not decided on the question of drawing money from the treasury. Judge Catron filed a separate opinion taking that view. (which is the FIRST we hear of the idea) but it was not concurred in by any other judge.

The case of *Brashear vs Mason*, 6 Howard, 92, was not decided on the ground that the warrant to pay money would not be ordered, but because the writ would not go against the Secretary.

The case of the U. S. vs *Guthrie*, 17 Howard, is claimed to decide the question that the writ will not be allowed to obtain money from the Treasury; but that case was put on the ground that as a matter of safety to the nation it would not do to allow an insignificant court like that of the Cir. Ct for the District to compel payment of a claim by an auditor in one of the Departments after it had been refused by the Auditor, his decision confirmed by the Secretary & his again by the President. But even this view received the sanction of only FOUR judges. Justices Curtis, Nelson, Grier & Campbell, declined to put the case on that ground, but refused the writ because it was not a proper remedy to try the title to an office. Judge McLean dissented, & filed an opinion differing from all. So that the doctrine of the opinion of Judge Daniel was not concurred in by more than FOUR out of NINE judges.

III. Every Intendment is to be taken against the return. The allegations of the alternative writ not answered are a limited. An evasive or insufficient answer admits the statements of the writ purporting to be answered.

*People vs Kilduff*, 15 Ill. 492. *Harwood vs Marshall*, 10 Md. 451.

*Page vs Hardin*, 8 B. Monroe 666.

IV. What facts will the court consider in deciding the demurrer to the Return?

The writ, so far as the question of the existence of the session on the 23d and 24th days of June, is concerned, states facts appearing on the journals and nothing more.

The Return sets out copies of the journals, but not in continuous order of time, as should have been done, which support the writ.

The Return then asserts a legal conclusion as to the effect of the proclamation of adjournment, claiming the session was closed by it on the 10th of June. If such conclusion is correct, the Return could and should stop. That ends the controversy; but if not correct, then ALL the other statements of the Return are had on demurrer, because they contradict the journals or are immaterial in determining the question at issue.

If the legislature was not adjourned by the Governor, and the journals are conclusive evidence, then the court will hold that the Respondent cannot by the rules of law set up to defeat the writ, that the members dispersed, that there was less than a quorum on the 10th of June after the proclamation was announced, (except as shown by the journals,) that only two Senators and four representatives were present on the 23d and 24th June, and that there was no session on those days.

The demurrer admits the statements of the Return; but not all statements, only those that are material, competent, and well pleaded.

V. The return states that the certificate of the speaker is not true in fact, & was wrongfully, fraudulently, and illegally issued. The certificate as I have said is conclusive on the Auditor and made so by the statute. If the object was to avoid it, because of fraud, the particular facts constituting the fraud should be set out. But I suppose the Auditor could not have intended to charge the speaker and a representative with the design of stealing two dollars from the treasury and dividing it: he merely wished to state in strong language that the certificate was illegal and not true because the session had been adjourned by the Governor.

VI. The only remaining question is, did the 23<sup>d</sup> General Assembly adjourn before the 23<sup>d</sup> day of June? The answer must be made from the journals set out in the writ and admitted by the Return, together with the judicial knowledge of the court as to the proclamation of the Governor and the rules of the legislature and parliamentary law.

The legislature was in session on the morning of the 10<sup>th</sup> of June, without question. If it closed before the 23<sup>d</sup>, it was either by the proclamation of the Executive, or its own action as a legislative body.

The proclamation was void and null.

The session could not be closed by its own action, except by the passage of a joint resolution expressly declaring it ended. In the absence of such resolution the session continued.

VII. There seems to be some idea that although the act of the Governor was unconstitutional and void, and that the legislature could not adjourn by dispersion, without a joint resolution yet that the two combined would effect what neither separately could do. This is a fallacy. If the proclamation was void and in conflict with the constitution, the legislature could not make it valid even by an express declaration, much less by silence and dispersion.

It is clear that the Governor had not the power to adjourn because a disagreement did not exist on the 10<sup>th</sup> June.

Could the legislature adjourn sine die by dispersion, which is inferred only from an absence of an entry of adjournment on the journals?

In this case the journal of the proceedings of the H. R. on 10<sup>th</sup> June, had an entry of adjournment sine die: and the journal of the Senate had on the 11<sup>th</sup> a like entry, and all the members had gone home, the adjournment would not have terminated the session, because it would conflict with the constitutional provision that one house shall not adjourn for more than two days without the consent of the other. Therefore, the dispersion without any such entries could not enable them to do by silence and indirection what could not be done expressly & directly. The session would continue until adjourned at some mutual time first agreed to by joint resolution.

But this idea of dispersion rests exclusively on the assumption that the legislature intended by such acts to close the session. This is false in fact. If the investigation is confined to the journals, the question is scarcely debatable. But if we go beyond, ALL the facts are to be considered. Why did legislation cease for a few days? Because there was no quorum to transact business; the proclamation sent a minority from their seats, breaking the quorum; the want of a quorum and the practical inability as demonstrated by the history of the country, induced the other members to cease business for a few days, when less than a quorum adjourned to next January, which is an adjournment "from day to day." This is the correct conclusion, and these are the facts on which it rests.

1. The proclamation was delivered,
2. The Senate had not a quorum there, and immediately thereafter the Republican members of the House left their seats, leaving that branch with less than a quorum.
3. Both houses proceeded as far as possible with less than a quorum to do business, except they did not take steps to compel the attendance of absent members.
4. A joint resolution, offered by Mr. Keyes, was passed requesting the absent members to return, and declaring that such absence ALONE prevented legislation. The request was not complied with.

5. The protest was signed by 56 representatives and 13 senators, and then adopted by the joint action of both houses as a *legislative body*, in which it is asserted that the proclamation was null and void, that the session was not closed, that legislation had practically closed at *that time*, not for the session, because the Governors supporters "left the halls of legislation at the bidding of their master." (writ p. 9.)

6. Both houses failed to adjourn *sine die* or by resolution to a day, but rose without having the right to re assemble when any number of members saw fit. This action had an object.

7. A number of members did assemble on the 23d and 24th of June and adjourned as they might to a day. The law will presume that the members *intended* to do just what was done, in the absence of evidence to the contrary, yet the Court is asked to *presume* that they did what they did not *intend*.

8. The members did not as they might attempt to *compel* the attendance of absent members. What inference is to be drawn? They were not obliged to do so. The history of late years in this and other States shows that such attendance cannot be compelled whenever the quorum is wilfully broken. With reference to that fact the majority declared that legislation was practically ended by the flight of the republican members.

9. The statute requires the Secretary and clerk of the respective houses to return the journals to the Secretary of State within ten days after adjournment; yet these journals were in possession of the officers on the 23d and 24th of June, and by resolution of the respective branches at that time they were directed to keep them.

There cannot be an adjournment in law by dispersion, when there was not in fact an intention to close the session, but on the contrary a assertion by a majority that it still exists.

Again less than a quorum cannot adjourn *sine die*; less than a quorum only was present after the proclamation, therefore they could not adjourn *sine die*; yet the Respondent claims that these members could by leaving their seats what they could not by vote.

*Handwritten notes in the left margin, including the number 110 and several lines of illegible cursive text.*

The People of Rele.  
Charles A. Keyes

vs

Jepe K. Dubois  
Auditor &c.

Add. Points & brief  
for Relator by

W. C. Goring

12. The protest was signed by 50 representatives and 13  
secretaries, and then adopted by the joint action of both houses  
as a legislative body in which it is asserted that the proclama-  
tion was null and void, that the session was not closed, that  
the Legislature had practically closed at that time, not for the ses-  
sion, because the Governor's supporters left the halls of leg-  
islation and the Governor's supporters left the halls of leg-  
islation at the signing of their protest." (W.C.G. 2)

13. These houses failed to adjourn sine die or by resolution  
on a day, but also without having the right to do so a simple when

14. A number of members did assemble on the 23d and  
of time and adjourned as they might to a day. The law

15. The members did not as they might attempt to collect  
in the absence of evidence to the contrary. Yet the Court

16. The members did not as they might attempt to collect  
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28. The members did not as they might attempt to collect  
in the absence of evidence to the contrary. Yet the Court

Fuller, Hunt  
Law Office of Henry M. Shepard,

~~9, 10 & 11 McCormick Build'g, cor. Dearborn & Randolph Sts.~~

CHICAGO, ILL., March 20 1865.

Dear Sir

In November 1863 I left at Mt. Vernon an old & valuable parliamentary work - Hatzell's Precedents in 4 volumes. I would like very much to have it returned and if you will see that it is sent to me by express I will pay all charges & be happy to compensate you for your trouble - Please attend to it at once - My name is written in the 1<sup>st</sup> volume & I think also in the other three

Yours truly

H. W. Fuller

The People of the State of  
 Illinois et Rel. of  
 Charles A. Keyes

vs  
 Jesse K. Dubois Auditor  
 of Public Accounts  
 of the State of Illinois

Alternative Writ of  
 Mandamus.

Filed Nov. 18. 1863 -  
Sp. Johnston Clk  
 11

# SUPREME COURT OF ILLINOIS,

FIRST GRAND DIVISION,

NOVEMBER TERM, A. D. 1863.

*The People of the State of Illinois*  
*Jesse K. Dubois, Auditor of Public Accounts*  
To the Honorable the Judges of the Supreme Court of the State of  
Illinois:

*Whereas* The People of the State of Illinois, upon the relation of  
*Charles A. Keyes* give the Honorable  
the Judges of the Supreme Court of Illinois to understand and be  
informed that the said relator was duly elected a member of the  
House of Representatives of the twenty-third General Assembly  
of said State of Illinois for the *20th* Representative District  
of said State, on the 4th day of November, A. D. 1862, and was  
duly qualified and took his seat in that body on the first Monday of  
January, A. D. 1863; that said General Assembly was in session  
from the said first Monday of January, A. D. 1863, until the *17th* day  
of February, A. D. 1863, when, in pursuance of a joint resolution  
to that effect theretofore passed by both Houses, it took a recess  
until the Tuesday after the first Monday of June, A. D. 1863, when  
it resumed its session, and continued the same until the 24th day  
of June, A. D. 1863, on which day, in accordance with a joint res-  
olution of both Houses to that effect, it took a recess until the  
Tuesday after the first Monday of January, A. D. 1864, as herein-  
after set forth.

*Whereas also*

And the people aforesaid, upon the relation of said *Charles A. Hayes* have given the Honorable the Judges of the Supreme Court further to understand and be informed, that, on the 2d day of June, A. D. 1863, while both branches of the General Assembly were in session, Mr. Bushnell, the Senator from La Salle, introduced in the Senate a joint resolution that the General Assembly adjourn *sine die*, on the 10th day of June, 1863, which was laid over under rule 43 of the Senate, that, "All resolutions presented to the Senate shall lie one day on the table, unless otherwise ordered," and no further action was taken thereon until in the forenoon of June 8th, 1863, when the resolution was called up, and after being amended so as to read "*Resolved*, by the Senate, the House of Representatives concurring therein, That this General Assembly will adjourn *sine die*, on the 8th inst., at six o'clock P. M.," it was passed by the Senate and a message of such action was delivered by the Secretary of the Senate to the House of Representatives, during their forenoon session of that day. The House of Representatives adjourned until two o'clock P. M., and immediately after the House was called to order, at the said hour of two o'clock, the said message from the Senate was taken up, and upon consideration of the resolution, the same was amended by striking out "8th," and inserting in lieu thereof "22d," and striking out "6 o'clock, P. M.," and inserting "10 o'clock A. M.," and then passed by the House of Representatives as amended, which action was immediately, on the assembling of the Senate, at 3 o'clock P. M., reported by message to the Senate, and as soon as the message was delivered, the Senate took up the same and the question being, shall the Senate concur in the amendment of the House, the vote was taken by yeas and nays, when the question was decided in the negative, as follows, to wit:

*Yeas*:—Berry, Blanchard, Gregg, Green, Knapp, Lindsey, Mason, Moffett, Ogden, Vanderveer, and Worcester.—11.

*Nays*:—Addams, Allen, Bushnell, Dummer, Funk, Lansing, Mack, Peters, Pickett, Richards, Schofield, and Ward—12;



And that during the afternoon session on the said 8th day of June, the House of Representatives passed the following resolution, to wit:

“*Whereas*, The House desires to recede from its action taken this day, in amending and adopting the Senate resolution in relation to adjournment, therefore,

“*Resolved*, That the Honorable Senate is hereby requested to return said resolution as amended, to the House, for re-consideration,” and the House notified the Senate of the passage thereof by a message delivered by the Clerk of the House immediately after (and before any intervening business had occurred) the vote of the Senate to non-concur in the amendment of the House, and after the delivery of such message, there were no other proceedings in either branch of the General Assembly, or messages sent or delivered, on the question of an adjournment *sine die*, on that or any other subsequent day; nor had there been any before that day, and at the hour of four o'clock P. M. of June 8th aforesaid, the Senate adjourned until 10 o'clock, the next morning. The House adjourned at 5 o'clock P. M., until 7 o'clock P. M., when it again convened and adjourned at nine o'clock 35 minutes P. M., until nine o'clock June 10th, in pursuance of a prior resolution.

*Whereas also*

The people aforesaid, upon the relation of the said *Charles A. Keyser*, have given the Honorable the Judges of the Supreme Court further to understand and be informed, that the Senate, in pursuance of adjournment, met at ten o'clock A. M., the 9th day of June, and proceeded as usual with business: and after the reading of the journal, Senator Knapp reported from the committee on township organization, a bill in relation to a bridge across Salt Creek, which was ordered to a third reading. Several messages were received from the House of Representatives. Senator Green moved to refer the bill for an act in relation to claims allowed by the army board, to the committee on public accounts and expenditures, which was agreed to; when Senator Mack moved to adjourn until ten o'clock next morning, on which the yeas and nays were demanded, when 2

voted aye, and 14 nay. Senator Blanchard moved a call of the house, when 16 Senators answered, and the Sergeant-at-arms was instructed to bring in absent members, and on motion of Senator Green, the Senate adjourned until 3 o'clock P. M., at which hour the Senate met pursuant to adjournment, and on motion of Senator Mason adjourned until 10 o'clock next morning. That the Senate met pursuant to adjournment, at 10 o'clock June 10th, when the journal was read and approved, and the Senate proceeded with their usual business, in the course of which, bills were reported from several of the standing committees, and ordered to a third reading, and reports made by the committee on engrossed and enrolled bills, after which the Speaker of the Senate read the following communication, to wit:

“STATE OF ILLINOIS, EXECUTIVE DEPARTMENT.

“TO THE GENERAL ASSEMBLY OF THE STATE OF ILLINOIS:

“*Whereas*, On the 8th day of June, A. D. 1863, the Senate adopted a joint resolution to adjourn *sine die* on said day at six o'clock P. M., which resolution, upon being submitted to the House of Representatives on the same day, was by them amended by substituting the 22d day of June and the hour of 10 o'clock A. M., which amendment the Senate thereupon refused to concur in;

“*Whereas*, The Constitution of this State contains the following provision, to wit:

“‘Sec. 13, ART. IV. In case of disagreement between the two houses with respect to the time of adjournment, the Governor shall have power to adjourn the General Assembly to such time as he thinks proper, provided it be not to a period beyond the next constitutional meeting of the same.’

“*Whereas*, I fully believe that the interests of the State will be best subserved by a speedy adjournment, the past history of the present Assembly holding out no reasonable hope of beneficent results to the citizens of the State, or the army in the field, from its further continuance;

"Now, therefore, In view of the existing disagreement between the two houses in respect to the time of adjournment, and by virtue of the power vested in me by the Constitution aforesaid, I, Richard Yates, Governor of the State of Illinois, do hereby adjourn the General Assembly now in session, to the Saturday next preceding the first Monday in January, A. D. 1865.

"Given at Springfield, this 10th day of June, A. D. 1863.

(Signed) "RICHARD YATES, Governor."

And after reading the same vacated the chair. And on motion of Senator Berry, Mr. Underwood, the Senator from St. Clair, was elected Speaker *pro tem.*, and on a call of the Senate, twelve Senators were found to be in attendance, when the Sergeant-at-arms was directed to bring in absent members, and afterwards the proceedings under the call were dispensed with, and a message received from the House, that they had appointed their part of a committee of conference on the bill for the relief of sick and wounded soldiers, and asking the Senate to concur, and appoint their part of said committee, and the Senate concurred in said resolution and appointed their part of said committee. A message was received from the House that they had passed a resolve that a joint committee be appointed to prepare an address to the people of the State, with the reasons why the members of the Legislature were not engaged in transacting the legitimate business for which they were elected, and had appointed their part of the committee, which resolution was taken up, concurred in, and the committee on the part of the Senate appointed, and then the Senate adjourned until 3 o'clock P. M., at which hour it met pursuant to adjournment, and on call of the Senate thirteen Senators answered; when Senator Green, from the joint committee of conference on the bill for the relief of sick and wounded soldiers, reported that the committee had agreed to recommend that the House concur in the amendments of the Senate. A message was then received from the House, on the passage of a joint resolution, which was concurred in by the Senate, and then another message was received that they had adopted a protest and ordered it spread upon the journal, and asked the concurrence of the Senate

in the same; and on motion of Mr. Green, the protest was taken up, adopted, and ordered to be entered on the journal of the Senate, and said protest was signed by thirteen Senators and fifty-six Representatives, and reads as follows, to wit :

### PROTEST.

Upon this 10th day of June, A. D. 1863, while the General Assembly were in session and engaged in the discharge of their constitutional duties, an attempt by the Governor of Illinois was made to dissolve this body; which attempt, illegal, unconstitutional, and outrageous as it is, must inevitably result in the cessation of any further legislation at this time.

The circumstances attending this monstrous and revolutionary usurpation of power, and the injurious consequences which must result to the people of the State, demand a brief statement on our part which we submit with confidence to the consideration of a discerning and candid public, whose rights have thus been ruthlessly invaded, and whose interests have been disregarded and trampled under foot.

The action of the Governor in this nefarious attempt to stop the legislation of the State is supposed to be based upon the following provision of the State constitution.

“ART. IV—SEC. 13. In case of disagreement between the two houses with regard to the time of adjournment, the Governor shall have power to adjourn the General Assembly to such time as he thinks proper, provided it be not to a period beyond the next constitutional meeting of the same.”

And the first question to be determined is, what is such a disagreement under the constitution as would justify the interposition of the Executive? Nor is the answer difficult to arrive at, since this point has been so well and thoroughly settled that it needs but its statement to determine the inquiry beyond cavil or contradiction. When one house amends the resolution or alters legislative action

of the other, as to the time of adjournment or any other subject, and the house proposing the resolution or action refuses to concur with the amendments so made, the amending house must be first informed of such non-concurrence, in order to recede and concur or take such other action in the premises as may tend to an agreement of both on the basis of compromise.

The amending house, being informed of non-concurrence in its action by the other, may either itself recede and concur, or adhere, and propose and appoint a committee of conference, which is the next step to be taken. And it is only when one house refuses to join in a committee of conference, or when such committee, having been appointed, fails to arrive at a common result, or, having so done, the same is not agreed on and adopted by both houses, that the disagreement spoken of in the constitution has been produced; and the usual parliamentary proceeding is to have two free conferences before final disagreement results. Both houses must be at a dead lock, without hope of or effort towards agreement, before Executive action can be invoked or legally taken. Were the rule otherwise, it would require the invariable agreement of each house to whatever the other chose to propose. And until this time it has never been questioned in Europe or this country that such was the rule.

Nor can the Executive take action, even where an actual disagreement exists, until officially informed thereof by both houses.

Tested by these principles, we present the facts in the present case, which will demonstrate the indefensible character of the proceeding which we reprobate and condemn.

*“Resolved by the Senate, the House of Representatives concurring therein, That this General Assembly will adjourn sine die on the 8th inst., at 6 o'clock P. M.”*

Which resolution was at once transmitted to the House, and, being taken up by that branch of the Legislature, was amended by the substitution of the 22d day of June instead of the 8th.

The resolution, being thus amended, was returned to the Senate for its action, whereupon that body refused to concur in the amendment.

The House was not then, and has not since been, officially informed of the non-concurrence of the Senate in the amendment in question, and no opportunity has as yet been afforded that body to recede from its previous action, if it so desired.

The regular parliamentary progression has not been observed; the House has not refused to recede and concur with the Senate in its action; no committees of conference have been proposed or appointed; and, in short, no disagreement has existed, or can be presumed as existing, in the premises.

Neither has the legal and official notification of a disagreement been laid before the Governor, as, indeed, it could not have been, since it was well known and understood that there was no such disagreement in fact.

We have thus briefly stated the position of affairs which the Governor of the great State of Illinois has made use of as a pretext for an arbitrary, illegal attempt to bring the deliberations of the General Assembly to a close.

By this action he has deliberately and designedly defeated the passage of measures of great public importance, and demanded by the exigencies of the times.

He has defeated the appropriation of one hundred thousand dollars for the gallant sons of Illinois who are bleeding and dying upon the battle-field and in the hospital, and whose terrible condition invites the sympathy of every human heart, and demands the earnest effort in their behalf of every citizen of the State on which they have shed imperishable glory. The bill for that purpose, already passed both houses, and pending simply upon a slight difference of opinion as to some of its details, in the lower house, which difference has now been happily removed, is defeated merely because the miserable partisanship of the Chief Executive, who usurps the unmerited title of the "Soldier's Friend," prevented him from consenting that a legislature having a majority of his political opponents should have the honor, as they would enjoy the privilege, of flying to the rescue of their gallant brethren.

He has defeated the bill for the sale of the coin in the treasury and the payment of our interest in treasury notes, saving hundreds of thousands to the people, which was on its final passage as the supporters of this action left the halls of legislation at the bidding of their master.

He has defeated the passage of the general appropriation bills already passed the Senate, and pending in the House and ready for passage, which the Senate had acted on without delay, and to which no obstruction was intended to be, would or could have been, interposed by the House.

He has defeated the printing of the report of the State Agricultural Society, an appropriation for which passed the House and was on its passage in the Senate, and the distribution of the appropriation for agricultural purposes made by the general government, and as yet unapplied to the ends for which it was intended, to the great detriment of the vast agricultural interests of Illinois, for whose benefit the measures were intended.

He has defeated the appropriation for the State Normal University, and the property will be sold under the existing judgments, and this noble institution be destroyed.

The memory of the great dead could not restrain him, and the appropriation for the erection of a monument to Douglas receives its death blow at his hands.

He has defeated the general and local legislation of the State, for much of which pressing necessity existed, and which was so fully matured as to require for its completion but slight farther action.

He has done all this without the shadow of a legal pretext, and in defiance of a well nigh universal public opinion.

Even partisanship affords no palliation for the pursuit of such a course, since no political measure has been pressed upon either branch of the Assembly during the recent period of its session. Which is the more guilty, the individual who proposes, or the wretched agents who carry into effect, an act so utterly indefensible, it is not for us to determine. It is sufficient that all the actors,

aiders and abettors of this scheme to block the wheels of government will receive the condemnation they deserve from an outraged people.

The manner in which this action was attempted to be taken deserves a passing notice. The statement by one branch of the government to a co-ordinate branch thereof, that its action has not been conducive to the public welfare, is disrespectful in terms, and an insult so obvious that we dismiss it with the remark that, if such insinuations could be permitted or were justifiable in any event, they come with an ill grace from the source of the delays to legislation during the former part of this session, and the entire cessation thereof at the present.

When it is considered that the Governor has been absent from his post of duty during the present portion of our session until within the last twenty-four hours, and that members of his political party, (who render to his commands the most abject obedience) repeatedly seceded from the Senate during the winter session, and have given a quorum of but two days and one-half during the summer continuation thereof, the suggestion that the General Assembly have failed in the performance of their duties deserves only our contempt.

Earnestly protesting against this arbitrary and illegal act of the Governor, and insisting that the General Assembly has still a legal existence, and has neither been adjourned nor constitutionally dissolved, we ask that this, our protest, may be entered on the journals of the respective houses.

SENATORS.

William Berry,  
Israel Blanchard,  
William H. Green,  
Hugh Gregg,  
Colby Knapp,  
John T. Lindsay,  
Albert C. Mason,

Samuel Moffat,  
W. A. J. Sparks,  
Bryant T. Scofield,  
William H. Underwood,  
Horatio M. Vandever,  
Linus E. Worcester.



## REPRESENTATIVES.

M. W. Fuller,	S. W. Miles,
A. G. Burr,	E. W. Menard,
James B. Turner,	M. Brand,
Chas. A. Keyes,	T. B. Hicks,
C. A. Walker,	W. W. O'Brien,
Ambrose M. Miller,	Samuel A. Buckmaster,
D. W. Odell,	John Gerard,
S. P. Shope,	T. C. Gibson,
A. E. Wheat,	Jefferson A. Davis,
Lyman Lacey,	Wm. J. Brown,
C. F. Coffeen,	George Dent,
Wm P. Witt,	L. G. Reid,
James M. Sharp,	J. N. English,
P. Dougherty,	Elias Wenger,
Chas. E. Boyer,	James Holgate,
John Kistler,	James M. Epler,
M. B. Patty,	Henry M. Williams,
John O. Dent,	Jas. M. Washburn,
H. K. Pepper,	James H. Smith,
John T. Springer,	Jesse R. Ford,
William Watkins,	John W. Wescott,
Scott Wike.	C. S. Conger,
John W. Merritt,	Perry A. Armstrong,
Reuben Roessler,	John G. Graham,
John Monroe,	James M. Heard,
John Ten Broek,	Milton M. Morrill,
J. S. Busey,	Joseph Sharon,
Thomas B. Cabeen,	R. H. Cann.

And thereupon the Senate adjourned until 9 o'clock the next morning when it met pursuant to adjournment.

*And whereas also*

The people aforesaid, upon the petition of the said *Charles A. Keigo*, have further give the Honorable the Judges of the Supreme Court to understand and be informed, that on the morning

of June 10th, the House of Representatives met pursuant to adjournment and proceeded with its usual business, during the course of which a resolution for a committee of conference upon the bill for the relief of sick and wounded soldiers was adopted; a communication from the Governor in relation to the discharge of soldiers from the Marine Artillery was laid before the House, bills passed, bills introduced and referred, after which a bill for an act to provide for the payment of the interest upon the State debt, and for the sale of certain gold and silver coin, belonging to the State of Illinois, was taken up, when Mr. Lacy, of Mason, moved an amendment, pending which a message from the Governor was announced, in regard to which the following is the only entry in the journal: "A message from the Governor was announced by the doorkeeper and read, but the bearer of the message was not recognized by the Speaker," and thereupon motions were made to adjourn, and withdrawn, when a call of the house was made, and forty-four answering, further proceedings under the call were dispensed with, and a joint resolution passed for the appointment of a committee to prepare an address to the people, on the subject of the Governor's attempt to adjourn the General Assembly, and then a message was received from the Senate that they had concurred in the resolution for a committee of conference on the bill for the relief of sick and wounded soldiers, when the House adjourned until 2 o'clock P. M., at which hour the House met pursuant to adjournment, and the committee of conference on the bill for the relief of sick and wounded soldiers, reported a recommendation that the House concur with the amendments of the Senate, which was adopted; then a message was received from the Senate of concurrence in a resolution of the House, then a resolution was moved by Mr. Keyes, of Sangamon, and adopted, and thereupon the bill for the relief of sick and wounded soldiers was taken up, and on the question, shall the House concur with the Senate in its amendments, the yeas and nays were taken, when it appearing that 44 voted yea and none nay, which being less than a quorum, the bill failed for the want of a quorum; and then the protest hereinafter set forth, signed by thirteen Senators, and fifty-six

Representatives as aforesaid, was submitted to the House and ordered to be spread upon the journal, which was done.

*Business also*

The people aforesaid, upon the relation of the said *Charles A. Keyes* have give the Honorable the Judges of the Supreme Court further to understand and be informed that the journals of both branches of the General Assembly are silent as to any proceedings in either branch after the morning of the 11th day of June, as before recited, until the afternoon of June 23d, 1863, when at the hour of 3 o'clock P. M., the following entry appears on the journal of the Senate: "The Speaker *pro-tempore*, Mr. Underwood, having retired from the chair, on motion of Mr. Lindsay, the Senator from Peoria, Mr. Knapp, the Senator from Logan, was elected Speaker *pro-tempore*, and thereupon took the chair," when on motion, the senate adjourned to 9 o'clock the next morning, at which time the Senate met pursuant to adjournment, when the journals were read and approved, when a message was received from the House of Representatives that they had passed the following resolution, to-wit:

"*Resolved* by the House of Representatives, the Senate concurring therein, that the two houses of the General Assembly, at 10 o'clock A. M. this day take a recess until the Tuesday after the first Monday of January, A. D. 1864, at 10 o'clock A. M.," which was concurred in by the Senate, and then other resolutions were passed by the Senate, and among them the following, to-wit:

"*Resolved* by the Senate, the House of Representatives concurring herein, that a joint committee of one on the part of the Senate and two on the part of the House of Representatives, be appointed to wait on the Governor and inform him that the General Assembly is now ready to adjourn for the recess, and ask him if he has any further communication to lay before them." And Senator Lindsay was appointed a member of said committee on the part of the Senate, and immediately thereafter the Senate received a message from the House of Representatives that they had concurred in the passage of the same resolution, and appointed Messrs. Fuller and Keyes as their part of said committee, and thereafter Senator Lindsay

reported that the joint committee had waited on the Governor in obedience to the joint resolution, and that the committee were informed by his Excellency that he had no communications to lay before this body, and that he did not recognize the legal existence of this as a legislative body, and after the receipt of a message from the House of Representatives that they were now ready to adjourn for the recess, on motion the Senate adjourned until the Tuesday after the first Monday in January next, at 10 o'clock A. M., in pursuance of the joint resolution before passed; and further, that the following entry next after the protest appears on the journal of the House of Representatives, to-wit:

"On motion of Mr. Fuller, the House at 2 o'clock and 20 minutes P. M., June 23d inst., adjourned until to-morrow morning at 9 o'clock," and further, that at the hour last mentioned, on the 24th day of June, the House of Representatives met pursuant to adjournment, when the reading of the journal was dispensed with, and a message from the Senate received that they had passed the joint resolution aforesaid for the appointment of a joint committee to wait on the Governor, which, on motion of Mr. Miller, of Logan, was taken up and concurred in, when the Speaker appointed Messrs. Fuller and Keyes on said committee, then the House passed the joint resolution for a recess aforesaid, and then passed several resolutions on different subjects, when Mr. Fuller, from the joint committee to wait on the Governor, submitted the same report to the House that was made by Senator Lindsay from said joint committee to the Senate as aforesaid. A committee was then appointed to inform the Senate that the House was now ready to adjourn for the recess, and after receiving a message that the Senate was ready to adjourn, and the hour of 10 o'clock having arrived, Mr. Speaker Buckmaster declared the House of Representatives adjourned for a recess until the Tuesday after the first Monday of January, A. D. 1864, at 10 o'clock A. M., in pursuance of the joint resolution to that effect.

*whereas*  
 And the people aforesaid, upon the relation of the said *Charles*  
*A. Keyes, have* give the Honorable the Judges

Representatives, for services and attendance on the 23d and 24th days of June, 1863, at the regular session which commenced on the first Monday of January, A. D. 1863, being *per diem* allowance as claimed by him.

SAMUEL A. BUCKMASTER,  
*Speaker of the House of Representatives.*

*Whereas*  
*Keyes, & have* And the people aforesaid, on the relation of said *Charles A.* give the Honorable the Judges of this court aforesaid further to understand and be informed that on the *22<sup>d</sup>* day of October, A. D. 1863, he, said relator presented the said certificate of the said Speaker to Jesse K. Dubois, Auditor of Public Accounts of the State of Illinois, and demanded of him to issue his warrant upon the Treasurer of the State of Illinois, as by law required, for the sum of two dollars *per diem* allowance for two days services and attendance as aforesaid, and the said Jesse K. Dubois refused to issue said warrant to said relator, and still does neglect and refuse so to do.

*And whereas*  
*Keyes* ~~Wherefore~~ the people aforesaid by the said *Charles A.* relator as aforesaid, pray that an alternative writ may be issued to the said Jesse K. Dubois, Auditor of Public Accounts, commanding him to return said writ by a day named therein with the causes why he fails and neglects to issue his warrant in favor of said relator for the sum of two dollars as aforesaid, and that such order may be made in the premises, upon a hearing, as to your Honors may seem meet, &c.

And it has been made to appear to  
the Court that due notice of the  
application for said writ has been  
served on the said Jesse K. Dubois,  
Auditor of Public accounts, more  
than ten days before the commencement  
of the present term, and the Court,  
after consideration of the motion of  
relator for said writ, has ordered  
that an alternative writ be issued  
according to the prayer of the Relator  
returnable on Friday, the 13<sup>th</sup> day of  
November instant, at the hour  
of 3 o'clock P.M.

Now therefore, you, the said Jesse  
K. Dubois, Auditor of Public accounts,  
of this state are hereby commanded  
to appear before the Supreme Court  
of the State of Illinois, now sitting  
at Mt Vernon, on or before the 13<sup>th</sup>  
day of November instant  
at the hour of 3 o'clock P.M.  
and show cause, if any you can,  
why a peremptory writ of Mandamus  
should not be awarded against  
you, requiring you to issue your  
warrant upon the Treasurer of  
the State of Illinois in favor of  
said relator, for the sum of  
two dollars. his per diem for the  
23<sup>d</sup> and 24<sup>th</sup> days of June

A. D. 1863, as a member of the  
House of Representatives of the  
twenty third General Assembly  
of said State.

Witness John D. Catton  
Chief Justice of the  
Supreme Court of the  
State of Illinois, and  
the Seal of said Court  
hereto affixed, at Mt  
Vernon in the first  
Grand Division on  
this 11<sup>th</sup> day of November  
A. D. 1863.

Noah Johnston Clerk

No. 18 The people vs at Hayes

vs  
The Auditor of Public Accounty.

No. 19 The people vs at Harsh

vs  
The Secretary of State

A peremptory Mandamus  
in the above Cases, is refused,  
Messrs Walker and Breece holding  
that the Proclamation of the Governor,  
acquiesced in by the General  
Assembly, terminated the  
seizure on the tenth day of  
June. Separate opinions  
will be filed early in January  
next.

Dec. 11. 1863

P. H. Walker  
" "

Wm. Breece

To Ch. Sup. Court & <sup>Ch. Secy</sup> Ward Division



Clerk's Office - Supreme Court.

Mount Vernon, Illinois.

September 5, 1864.

W. C. Goway Esq.

Dear Sir,

After some delay, I have  
made out cost bills in the Railway and  
Mandamus Cases - and upon the other  
leaf of this sheet you have a Statement  
of the same.

I don't know who are sufferers in  
these cases - but as the result is hard upon  
some body - I propose to take \$150.00 more  
~~and~~ <sup>if paid promptly, and</sup> close the bills - ~~if promptly paid.~~

Respectfully,

Noah Johnston Clerk

No 21 - Guthrie vs Railway Co -	81-36
" 28 - People vs Dubois	78-83
" 29 - Same as Hatch	49-89
" 30 - Same as Gov	45-99
	<hr/>
	\$ 256.07

Locatits - Prepayments \$60

Prepaid \$11.00 each on the four cases -	44.00	}	\$ 72.00
Abstracts furnished in the Railway case	10.00		
Paid to "Times" Office by Mr Gandy -	18.00		
	<hr/>		
Bal Due			\$ 184.07

Nov. Term Supreme Court. A.D. 1863

The People of the State of  
Ill. vs. Chas. A  
Keys -

28 - vs

Jesse H. Dubois -  
Auditor public account, &c

1863 - In filing Pet. H. 20 - docketing Cause 12 -	32
" issuing writ Hery - 6000 Words -	31-50
" filing Papers -	50
" Ent. orders	1.50
" " Opinions by Walker	12.24
" " " " Bruns -	26.10
" Docket fee	6.00
" Cost bill 37 - Postage 30	67
	<hr/>
	\$ 78.83

Repaid \$11.00.

28

Peuple & Co

ny

Subsidiary & Co

Centerville \$78.83

Perpand - \$11.00

President of the Board, Boston  
Sustained, Prof. of Bookkeeping &  
Cryptography of M. W. Peckham  
Sent to Peckham, Oct. 17  
1863 with Peckham of 1864

28 18

People ex rel

vs  
Dubois Auditor

1863

Assess of Dubois  
taken out & sent  
to the Treasurer,  
March 6-1865

1863

8437