

Executive Speech
of
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Speech of Gov. Israel Smith – 1807.

Gentlemen of the Council, and Gentlemen of the House of Representatives, – Permit me to express to you, and through you to the freemen at large, the high sense I entertain of the honor done me by their suffrages which have conferred on me this seat. No circumstance can be more flattering than after a long course of public life to meet this new and unequivocal evidence of the public confidence and esteem. It demands of me, in whatever station I may be called to act, a faithful, diligent and unremitting discharge of the duties belonging to it. Impressed with sentiments of gratitude for honors conferred, I feel a species of enthusiasm in commencing the fulfillment of the duties before me. When I reflect, however, upon the trust reposed in the chief executive magistrate, the arduous, but more especially the critical nature of the duties belonging to that station, at a time also when the public mind is uncommonly awake to its rights and privileges; when this watchfulness has produced discussions and a train of thought which indifferent minds has produced very different results; when I bear in mind also the urbanity and the unassuming administration of my predecessor in office, I am almost led to despair of ever being able to quit the office I am now called to fill with the same happy auspices in which I enter upon it. In the discharge of official duties, however, I shall place my greatest hopes of success in the candor, assistance and indulgence of this honorable Assembly.

The constitution makes it the duty of the Governor and Council “to correspond with other States, to transact business with the officer of Government, civil and military, and prepare such business as may appear to them necessary to lay before the General Assembly;” also “to take care that the laws be faithfully executed,” and to “expedite the execution of such measures as may be resolved upon by the General Assembly.” I have not had opportunity to consult my predecessor in office whether any correspondence has taken place between the executive of this and any other State, or the United States, on subjects the nature of which requires to be submitted to the General Assembly, or whether any business has been transacted by the executive with the officers of our own government of a similar nature; should there be any they must be made the subject of some future communication.

Again the Constitution makes it the duty of the Governor and Council “to prepare such business as may appear to them necessary to lay before the General Assembly.” Under this clause of the Constitution must be inferred the duty of the Governor and Council to recommend to the General Assembly subjects for legislative consideration, such as in their opinion the good of community requires to be adopted. Among the most important of those subjects which have been presented to my mind is that of a variation of [in] the modes of punishment established in our criminal code; to substitute generally, for corporal punishments, confinement for the purpose of initiating the culprit into a habit of useful industry, or in more common phraseology, confinement to hard labor. I am not insensible of the insufficiency of theoretical reasoning on abstract principles, when opposed to inveterate custom and habit. It will not be denied that corporal punishments may have had a good effect in the prevention of crimes, but this concession does not admit the inference that no other mode of punishment would be preferable. That mode of punishment, which is worse than none, must be vile indeed. Confinement and hard labor is a mode of punishment peculiarly suited to an advanced state of society, and where the arts abound. In the infancy of government, where the arts do not exist, it is found too difficult and expensive to provide an asylum for the safe keeping of culprits, and to furnish the means and materials for their employment; but in a society and government where the arts abound, these difficulties vanish and leave the arguments drawn from feelings and humanity and the nature of man in their full force. By substituting the punishment proposed, a government may not only prevent the expense to which other modes of punishment must subject it; but may make it, if thought advisable, a source of revenue to the State. A more intimate acquaintance with the effect produced on the conduct of culprits, in States where this mode of punishment is adopted, would no doubt strongly recommend the measure. And in States where it has been the longest in operation, there exists the most indubitable and unshaken conviction of its utility. This honorable Assembly will permit me to bring to their remembrance the thirty seventh section of the constitution of this State; it is in the following words: “To deter more effectually from the commission of crimes, by continued visible punishments of long duration, and to make sanguinary punishments less necessary, means ought to be provided for punishing by hard labor those who shall be convicted of crimes not capital, whereby the criminal

shall be employed for the benefit of the public, or for the reparation of injuries done to private persons; and all persons at proper times ought to be permitted to see them at their labor.” To the forcible language of the Constitution I can add nothing. It is sincerely hoped the General Assembly will not permit the present session to pass away without making the necessary provisions on this subject.

The constitution further enjoins it on the Governor and Council “to take care that the laws be faithfully executed, and to expedite the execution of such measures as may be resolved upon by the General Assembly.” Very few of the executive powers of our government are entrusted into the hands of the supreme executive¹ in the first instance for execution; but on the contrary are entrusted to certain officers, who from the manner of their appointment and the nature of their duties as pointed out by the laws, appear to be exempted from executive direction or censure. As it relates to the criminal code, where the laws cannot be put in force against an individual but by the intervention of a trial in a court of judicature, the prosecuting officers are with propriety placed under its direction, as being part of a distinct branch of the Government. But in the financial department, a vigilance in the executives over subordinate officers who may in any way be employed in receiving and paying over public monies, seems more important. The necessity of any particular attention to this subject by the executive, is however superseded by wholesome laws already passed, by which it is made the duty of all subordinate officers, connected in any way with the collection of the revenue to make an annual settlement with the head of the treasury department; a settlement is also to be made with the treasury department annually, with a full and fair statement of all accounts with the balances to be laid before the General Assembly at their October session. By the foregoing provisions of the law, any call of the Executive on the treasury department for the information of the General Assembly is rendered unnecessary.

There are two statute laws of very general concern, which are left wholly with the corporations of towns for their execution: the act “for the support of school,” and the act “for laying out, making, repairing and clearing out highways,” are pointed at. It is submitted whether it would not be useful to make some provision by which the General Assembly might be officially informed how far and in what manner these laws are carried into effect by the respective corporations.

In relation to our external protection and defense, most of our legislative concerns are entrusted to the federal government; the organizing, arming, and disciplining the militia excepted. The annual return of the Adjutant General to the Governor, of the state of the Militia, rendered necessary by law, when received, shall be laid before you. It may aid the legislature in determining whether any further provisions at this time are necessary more effectually to protect community against the evils of war; an evil of all others perhaps the most to be deprecated by government.

Gentlemen of the legislature, our duty as legislators is to provide wholesome laws for the promotion of virtue, happiness, and prosperity among the people over whom the laws are to operate. The end of all government is to teach each individual of the community the necessity of self-government. When we reflect on the extensive influence of laws in molding and forming the manners, the habits and virtues of a people – that their influence, as in the present case, is to extend over little less than two hundred thousand people, the business of legislation swells to a prodigious magnitude, and creates in our minds enthusiastic expectations from its good effects. On the contrary, when we look over the history of Nations and their Governments; [and learn] how by their virtues, at one period, and by their good management, they have risen to high degrees of eminence; at others, by their corruption, venality and abuse of power have again sunk into the vortex of despotism; and that this has been the fate of all governments which have preceded ours, we are left in despondency at the wretched contemplation. May we not however flatter ourselves that these evils have arisen in a great measure from the circumstance of irresponsibility with which the powers of government have heretofore been entrusted to men. In all governments which have heretofore existed, the powers of government have been exercised by men, not in the right of community, but in the right of themselves. Is it wonderful then, that the laws, instead of being calculated to promote the general welfare, should be wrested to the purposes of individual aggrandizement. Our government is happily organized in a manner in which the duty and interest of the law-giver is very intimately connected and blended with the rights and interests of the community; and

¹ “Entrusted to the supreme executive” in the printed speech.

under such circumstances of responsibility for the exercise of his power, as compels him to feel less the sympathies of the rules than the sympathies of the ruled. It would seem, from the correct principles of our government, that nothing but an uncommon degree of ignorance and depravity could ever induce those who are employed in making and executing the laws to depart from or forgetful of the rights and interests of community. May we not flatter ourselves that there are such degrees of light and information, in relation to the science of government, diffused among the people, as will defeat if not prevent every attempt upon their supposed ignorance and credulity.

Gentlemen, that we may be in some measure instrumental in promoting, for ourselves and our constituents, the blessings of a good government, let us keep up that watchfulness over the conduct of rulers, which is calculated to teach them a just responsibility in their stations; exercising all that indulgence towards honest difference of opinion which the full and complete enjoyment of all the blessings of a free government renders necessary. May we in our respective stations during the present session, and the period for which we are elected, be directed to the adoption of the wisest and best measures for the promotion of the public happiness.

ISRAEL SMITH.²

² There are several variations in the manuscript and printed copies of this speech, some of which doubtless are errors of the Secretary of the Council, and others changes made in the copy for the printer.