

MESSAGE

OF

Joel Parker, Governor of New Jersey,

TO THE LEGISLATURE,

IN RELATION TO THE

BILL PENDING BEFORE THE U. S. HOUSE OF REPRESENTATIVES

CONCERNING THE

CAMDEN AND ATLANTIC RAILROAD COMPANY AND THE
RARITAN AND DELAWARE BAY RAILROAD CO.

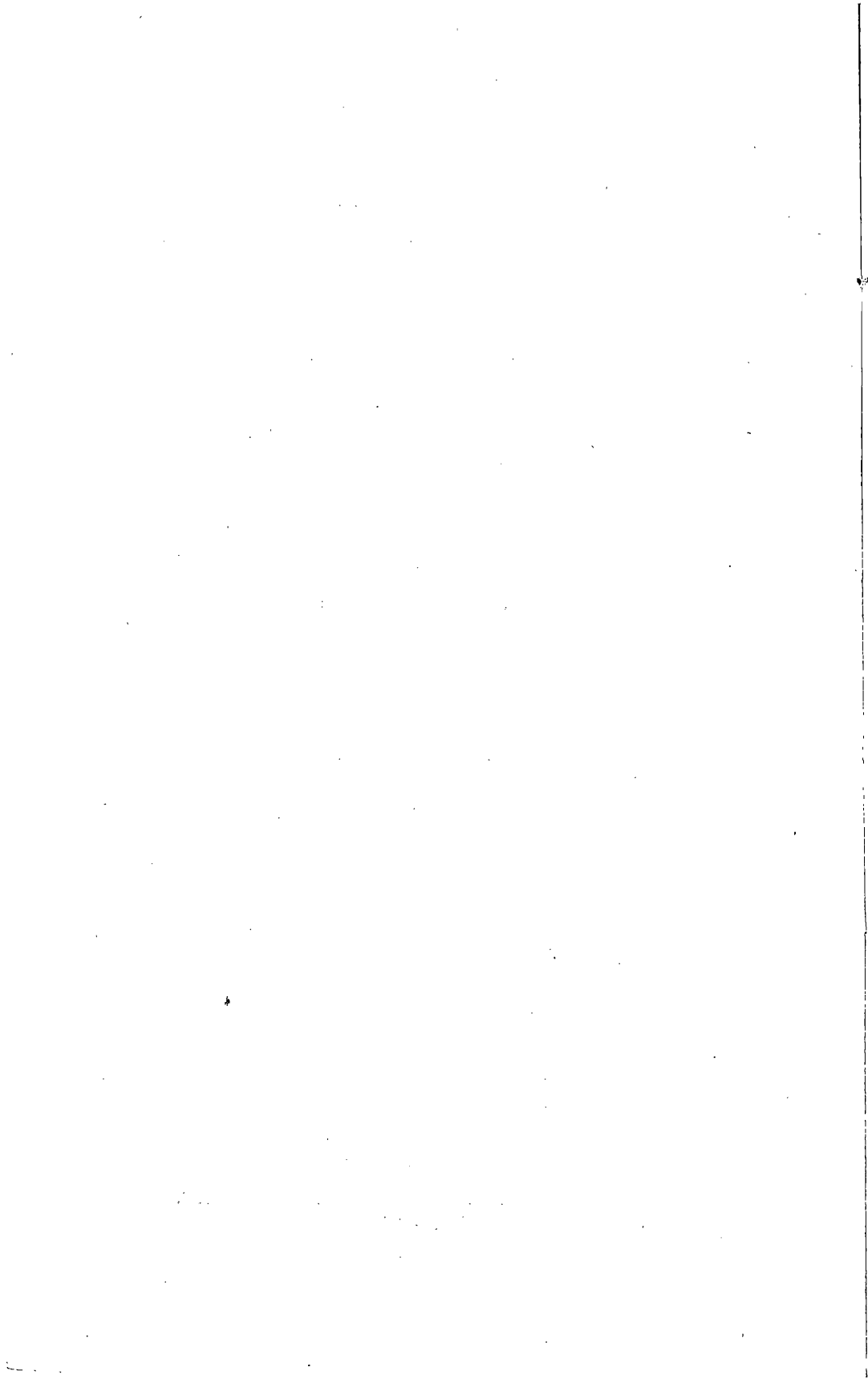
and Resolutions Adopted by the New Jersey Legislature.

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M E S S A G E .

STATE OF NEW JERSEY, }
EXECUTIVE DEPARTMENT, }
TRENTON, March 23d, 1864. }

Gentlemen of the Senate and General Assembly :

The following bill reported by the Committee on Military Affairs of the House of Representatives of the United States, is now pending in that body, viz. :

“ Be it enacted, by the Senate and House of Representatives of the United States of America in Congress Assembled, That the railroad of the Camden and Atlantic Railroad Company, and the branches thereof, built and to be built, and the railroad of the Raritan and Delaware Bay Railroad Company, and the branches thereof, built and to be built, are hereby declared to be lawful structures and public highways of the United States.

“ SEC. 2. And be it further enacted, That the said railroads and branches, with a ferry or ferries from Camden, in the State of New Jersey, to Philadelphia, in the State of Pennsylvania, and steamboats and other vessels from Port Monmouth, in the State of New Jersey, for the city of New York, running in connection with said roads, are hereby established and recognized as a post route, military road and public highway of the United States for the purpose of transmission of the mails, troops and munitions of war of the United States, and for the transportation of goods, wares and merchandise of foreign growth across the State of New Jersey, under permits granted by the collectors of the ports of the United States authorized to grant the same, and for commerce among and between the several states of the United States.

“ SEC. 3. And be it further enacted, That the Camden and Atlantic Railroad Company, and the Raritan and Delaware Bay Railroad Company, chartered by the State of New Jersey, or either of them, or their assigns, are hereby authorized and empowered to complete, maintain and operate the said railroads and branches, and to establish, maintain and run the said ferries, steamboats and other vessels as a line of transportation for goods, wares and merchandise of all descriptions, and passengers between the cities of New York and Philadelphia, and between the intermediate places and said cities, respectively, and

for commerce between and among the several states of the United States, anything in any law or laws of the above-named states to the contrary notwithstanding."

The fact that one of the important committees of Congress has reported a bill so seriously affecting the rights of this state, and the additional fact that its passage is urged with great pertinacity by interested parties, apparently with some hope of success, require that I should bring the subject to the attention of the Legislature.

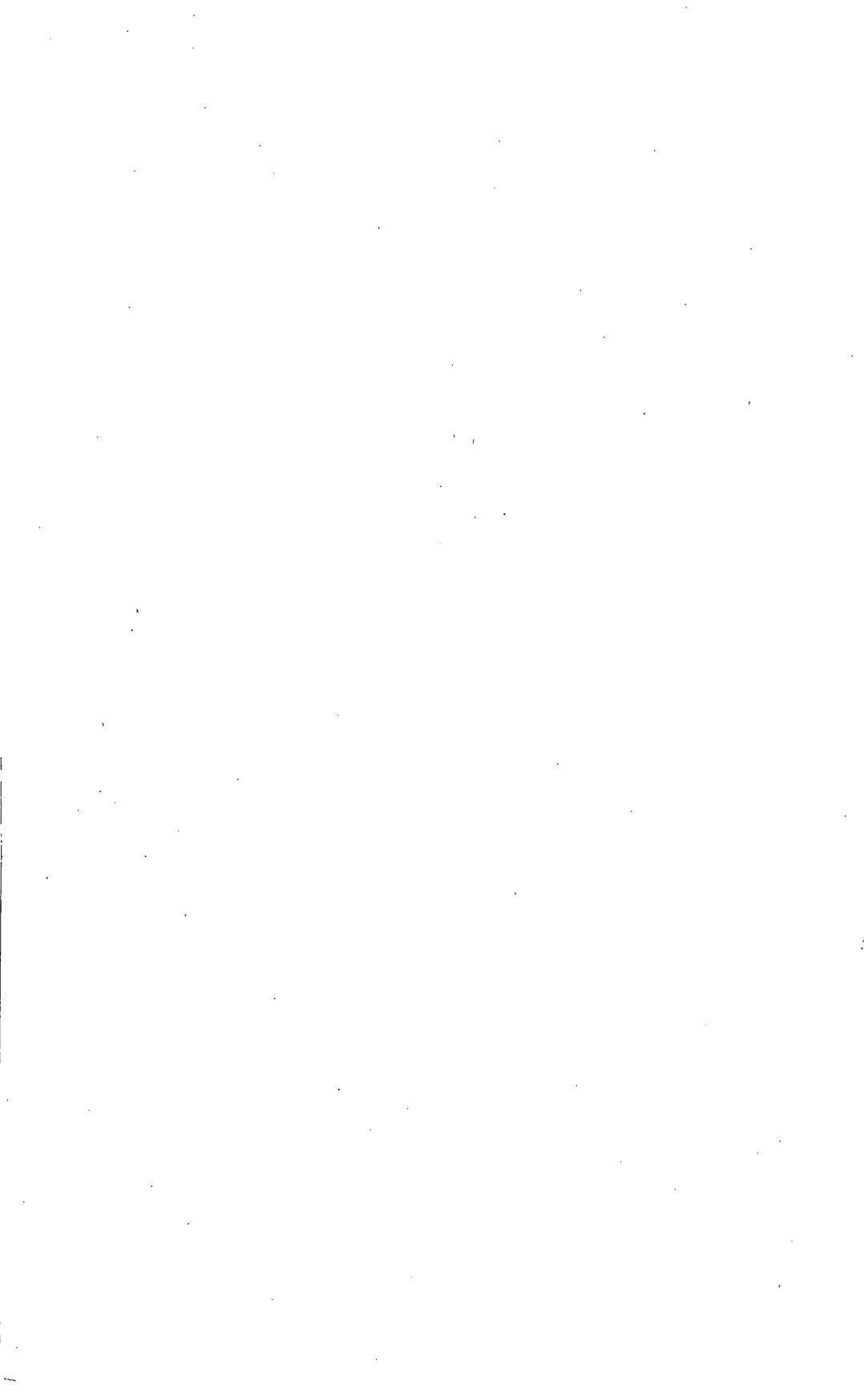
In the consideration of this question, two inquiries naturally arise. *First*, would the proposed action of Congress, if consummated, affect the pecuniary interests of this state? *Second* and *chiefly*, would such action infringe upon the sovereignty of the state?

At an early day, the State of New Jersey, for a consideration, made a contract with certain companies, during a specified time, not to construct, or authorize others to construct, any railroad across this state, to be used for the transportation of passengers or merchandise between the cities of New York and Philadelphia, without consent of said companies. This privilege was granted partly as an inducement to the investment of private funds in what was then considered a hazardous enterprise, and partly in consideration of the transfer to the state of a portion of their capital stock, and the agreement annually to pay the amount of certain transit duties, in the state treasury. Whether such a contract was wise, and calculated to advance the public welfare, is a question not involved in the consideration of the subject now presented. The contract, as it stands, has been sustained by the courts, and whatever difference of opinion may exist, as to the policy that dictated it, our solemn agreement cannot now be repudiated without the violation of law, nor without dishonor. It is for you to inquire whether the proposed action of Congress would affect the interest of the state in the stock, dividends or transit duties derived from said companies.

But the pecuniary interest of the state is of little importance in comparison with the principle involved; and I therefore direct your attention particularly to the second inquiry, before mentioned. New Jersey is a sovereign state, and it is our duty, by every lawful means to protect and defend her sovereignty; and to transmit, unimpaired to posterity, all her rights as they were received by us from our fathers. In the exercise of her rightful powers she may build, maintain and manage lines of public travel within her territory; or she may grant to others the right to construct such works, under such regulations and upon such conditions as she may see fit to impose. When the states entered into the national compact they yielded to the general government the right to establish post roads for the conveyance of mails, and the power to construct military roads in time of war, for the transportation of troops; but even these roads must be operated by the government, and not through the agency or for the benefit of private corporations. A law of Congress, proposing to

exceed the powers granted by the states, infringes upon their reserved rights, and detracts from the State Legislatures a portion of their rightful authority. The roads which Congress proposes to invest with such extraordinary powers are already post routes; and the President has been authorized by law to use any railroad in the country for military purposes. Therefore, no additional legislation is needed to make these roads post or military routes; nor has any been asked for by the President, the Secretary of War, or by the Postmaster General. The *third* section of the bill declares the real object of its originators, which is to empower the companies therein named, not merely to carry the mail, or convey troops and munitions of war, but *to transport goods, wares, and merchandize of all descriptions, and passengers, between New York and Philadelphia, notwithstanding any law of this state to the contrary.* And not only is this authority to be given on the main line of the roads, but the proposition before Congress is to grant the power to carry freight and passengers on all branches thereof built and *to be built.* If such a law be valid, the Legislature of the state is a powerless body, and our citizens must hereafter beg Congress for the privilege of constructing works of public improvement on our own soil. The passage of such an act (although of no binding force, because unconstitutional) would be an insult to the people of New Jersey. It would take the creatures of our law, now under the ban of judicial injunction for violation of our statutes, and, in direct opposition to the decision of our courts, attempt to make them independent of and superior to the power that created them. Such action deserves, and should receive, the strongest legislative remonstrance. Let it be distinctly understood, by those who would inflict this wrong and indignity upon our state, that while New Jersey will comply with every legal obligation, and will respect and protect the rights of all, she will not permit any infringement of her rights without resorting to every lawful means to prevent it.

JOEL PARKER



CONCURRENT RESOLUTIONS

ADOPTED BY BOTH HOUSES OF THE LEGISLATURE MARCH 24, 1864.

WHEREAS, By a message from the Governor the attention of the Legislature has been called to a bill now before Congress, declaring the railroad of the Camden and Atlantic Railroad Company, and the branches thereof, built and to be built, and the railroad of the Raritan and Delaware Bay Railroad Company and the branches thereof, built and to be built, lawful structures and public highways of the United States, and whereas the said bill authorizes and empowers the said companies, chartered by the State of New Jersey, to complete and operate the said railroads and branches, and to establish, maintain and run ferries, steamboats and other vessels in connection therewith, as a line of transportation for goods, wares and merchandize of all descriptions, and passengers between the cities of New York and Philadelphia, and between intermediate places and cities, anything in the laws of this state to the contrary notwithstanding ;

And whereas the Court of Chancery of this state has decided that the use of the said railroads for the transportation of passengers and merchandise between the cities of New York and Philadelphia is a direct violation of the laws of this state, and has ordered the said companies to desist therefrom,

Be it Resolved by the Senate of the State of New Jersey, (the House of Assembly concurring,) That we do hereby protest against the passage of the said bill.

1. Because it proposes to divest the state of its local territorial jurisdiction over its own citizens, within its own limits, over its own soil ; and would be the unprecedented and unnecessary exercise of a power not belonging to the United States, and never before claimed by the general government.

2. Because it proposes to empower these corporations to extend branch railroads any where within the state, wholly within the jurisdiction of New Jersey, to the injury of the state and every railroad interest therein, and in direct defiance of the authority and rights of the state.

3. Because it proposes to empower corporations, created by the Legislature of this state, to do what the Legislature never gave them power to do—to make the creatures superior to the creator, and allow

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them with impunity to violate the laws of New Jersey, by which they exist, and to defy the process of her courts.

4. Because such special legislation, aimed only at New Jersey, would be a wanton insult to the dignity of the state, in derogation of her reserved rights, and in violation of the contracts she has made, and which have been pronounced by the courts to be constitutional and binding.

Be it further resolved, That a copy of the foregoing resolution be forwarded to the Senators and Members of Congress from New Jersey, and they be requested to use all proper exertions to prevent the passage of a bill so injurious to the rights of our state and offensive to her citizens.