

# MAINE STATE LEGISLATURE

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# RESOLVES

OF THE

**SEVENTH LEGISLATURE**

OF THE

**STATE OF MAINE,**

**PASSED AT THE SESSION**

WHICH COMMENCED ON THE THIRD DAY OF JANUARY, AND ENDED  
ON THE TWENTY-SIXTH DAY OF FEBRUARY, ONE THOUSAND  
EIGHT HUNDRED AND TWENTY-SEVEN.

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*Published agreeably to the Resolve of the 20th June, 1820,*

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**FORTLAND.**

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1827.

**SPEECH**  
OF THE  
**GOVERNOR OF THE STATE OF MAINE,**  
TO  
**BOTH HOUSES OF THE LEGISLATURE.**



*Gentlemen of the Senate,  
and of the House of Representatives :*

WHEN we cast our eyes over the brief space between the period of the separation of Maine from Massachusetts, and the moment now passing, we cannot, as citizens of the former State, fail to be animated to unremitting diligence and exertion in pursuing that course in which we have been advancing. We are witnesses of a most extraordinary development of resources, and we are now here to consult as to the welfare of a numerous population, placed within long lines of maritime and interior frontier, engaged in a great variety of pursuits, and occupying a vast and fertile territory. I am rejoiced to be able to announce that this population, blessed as it is with good laws and a satisfactory administration of justice, demands but little at our hands. To continue this condition, so far as consists with the subordinate power of human action, in a brief term of official life, the fidelity in us to execute what the wisdom of our predecessors has devised, will require scarcely any other aid than that of the unabated enterprise, industry and morality of our fellow citizens. Indeed, recollecting that our constitution was formed under the calm, considerate and beneficent sway of patriotic sentiment, and that our laws have been enacted under the light of the resplendent examples and instructive experience of our parent republic, we shall be led to approach innovation with caution, and only after discovering, by the full survey of our affairs, some pernicious deformity or obvious defect. Yet, while the occasion for action is thus limited, there will be something to be done to counteract the operation of moral and physical evils, and to break down, early, every obstacle to the progress of this State towards the high station to which it may honorably and properly aspire.

In the situation of every individual, and more particularly in that of every community, there are deeply interesting, infinitely diversified, and immensely important objects of embellishment and improvement; yet the labor of the prudent legislator will be directed to calculating and proportioning means and ends. You may easily devise schemes of improvement, on which millions of dollars might be expended from abundant wealth, to enrich a succeeding race; but the glory of projecting such undertakings may best be yielded to those who can execute them; while we, gradually advancing in a humbler path, shall postpone our anticipations of a splendid futurity to the wants of the constituents who created us.

Intending, before I proceed to more general topics, to notice some of the objects to which existing circumstances invite your attention, allow me, first, to advert to the large domain of our unsettled territory. Attracting, as it does, immigration by its cheapness, fertility, and the salubrity of our climate, we are enabled to receive a large annual contribution from a considerable portion of New England, of settlers, whose character does us honor, and whose productive labor as favorably advances our means as it most rapidly promotes their interests. The extent of that domain, connected with its capacity of production, renders it adequate to the sustenance of many hundreds of thousands of inhabitants. Remembering that a sound yeomanry is the best treasure of a State, and a soil well cultivated by them its best reliance for permanent prosperity, you will not fail duly to estimate the importance of exercising, strenuously, your legitimate authority for planting human life and human happiness on those vast wilds subject to the jurisdiction of this government. Thus the physical and moral power of the community will be increased, and every burden, requiring a common support, will be light on the multiplied hands which will sustain it.

The part of Maine especially requiring this great creative and improving work, under your care, is that traversed by the Penobscot and its tributaries, presenting a sum of boatable waters of many hundred miles in length, and easily to be connected with the St. Croix, the St. Johns, and the St. Lawrence, in or near the British Provinces.

It would be proper, also, here, particularly to notice the inducements to facilitate communication with the Canadas from the Kennebec, if I had not reasons for depending on the public spirited activity and the laudable vigilance over the common interests of the inhabitants along that river, for the display of all the facts and reasonings you may wish to receive on the subject.

The most remote settlers of the domain I have mentioned, as an object of our first attention, are few and sparse. To extend to the privations of their situation, and to the encouragement of others, all the advantages of which we can enable our countrymen to partake, and then to furnish all the facilities we can command for a gradual and continuous progress of improvement, will be to discharge that primary duty which is supported by policy, and which public sentiment will approve, as neither deficient through illiberality, nor extravagant through disregard of a useful economy. Let us then finish our almost valueless, while imperfect labors, for the opening communication along the lower part of the Penobscot, and in other places, with the citizens whose enterprising spirit has placed them in retired situations, and then, by a slow and gradual advancement, spread beyond the proofs of the beneficent, prudent, and generous character of the State.

If the United States shall adopt a system for a proportional distribution of their surplus funds to promote internal improvements, Maine may derive some aid from that source ; but we have already arrived at the threatening era in our history, when the doctrine, directly tending to partiality and corruption, and to fortifying the bribing powers of governments, has become current, that Congress may make appropriations, of the nature, in part, of gratuities, of immense revenues, without any other rule than the immediately predominant bias of the members' will, a doctrine which, as the citizens of a republican country, a regard for the inducing purity of motive, and correctness of administration, will not permit us to see encouraged without the most unpleasant forebodings

I am inclined to believe that there is no one, whose personal observation would not impress his mind with the importance of extinguishing the title to the numerous islands in the Penobscot, in those who now, and, as we have reason to fear, will always neglect to apply cultivation, to render those fertile, well situated, and considerably extensive tracts as useful as consists with the prosperity of what may be called the Penobscot region. A former legislature authorized the purchase of them ; but, through the prejudices of the proprietors, and the difficulty of acting, by a formal and official agency, the wise purposes of the government have not been accomplished.

We ought not, however, under any discouragements, to remit our efforts to accomplish every thing which is at once commended by utility and sustained by justice. If we shall yield the right of pre-emption so that individuals may be

permitted to purchase any portion of those islands, under regulations which shall guard the Indians against injuries, and shall secure them the avails of their sales, or the annual interest on them, I am persuaded that a very desirable object will gradually be attained, consistently with the most upright and benevolent principles.

In connection with the same topic, I feel obliged earnestly to solicit your providing care as to a concern holding close relationship, not only to the property, but to the reputation of the State. It is generally known, that unfortunate collisions have happened between the government and some of those persons engaged in lumbering along the Penobscot and its tributaries. Those persons are dependent for subsistence on the branch of business, the pursuit of which has caused this difficulty. They have acted, often, more in error than in malice, and their employment, when conducted under the laws, has a most advantageous operation on our commerce and on the profits of our agricultural labor. It seems probable, in short, that a great proportion of the evils complained of would be avoided, beneficially in all respects, by authorizing the sale of the timber on our lands, in small parcels, so as to accommodate all who may wish to avail themselves of the opportunity to purchase.

When exercising the fostering care of the government for alleviating the privations of the settler, winning immigration, and changing a wide spread wilderness in one portion of our extensive territory, to cultivated fields, we should not be entitled to confidence, even in our integrity, if we should not provide against the intermingling of any injuries with the beneficence we are contemplating. Moral wrong can never be ripened, except by bad legislation, into legal right, nor can a tortious act ever create an equitable claim. It is true, that under clashing titles, and oppressive evictions, an afflicting and exasperating evil has, for a time, necessarily drawn the law from its better principles, to a restoration of which, without infringing existing rights, although a partial prejudice may resist it, the absence of the evil, and the dictates of honesty, and of a policy calculated for the good of all, seem to me to invite us. The consequences of encouraging wrongful occupation of property, which the records of our courts are constantly exhibiting, clearly prove, that, in this, as in most other cases, the unaccommodating rectitude of justice accomplishes most for the good of mankind.

The north eastern boundary of our State remains to be determined through the dilatory processes of a negotiation, which, it is hoped, a regard for our interests may urge to a conclusion in a reasonable term. It becomes a community

to be tenacious of territorial possessions, when its relative political importance, and its self protecting powers are in a degree involved in them, and its future welfare is to be affected by retaining or losing them ; but, as we have no reason to believe, that the right or disposition any where exists to cede our soil, under the pretext of adjusting a limit, which would be an abuse, in which neither the people nor governments of the Union or the States would acquiesce, we may safely anticipate that our landmarks will be held sacred and that our inalienable sovereignty will be respected.

My immediate predecessor has solicited the documents contemplated by a Resolve of a former Legislature, relative to our boundary, and I cannot but hope that the person applied to will find the obligations of his situation so modified, as to admit his furnishing the proper officers of this State that information, by which it may be prepared to judge correctly of the rights of the Union, and of a foreign nation, in connection with that independent right which it ought to maintain, so far as the prudent application of all its justifiable means will permit.

I shall not fail to inform the President of the United States, not only of the confidence we have in his regard for our rights and interests, but of our solicitude to be able to add to the other causes of our respectful consideration, a compliance with our wishes, in the particular named, unless you shall indicate a different course of procedure.

Taking, at last, a general view of the topic, which, from its importance, has led me to notice so many points, I may be allowed, even without reference to special legislation, to say, that, although we are much indebted to one of our citizens for his exertions in this respect, yet the production of a good map and gazetteer, with correct statistical accounts, are indispensable for our guidance in many particulars, as legislative or executive officers, and would be exceedingly valuable to the people at large.

Another object of attention, always commanding the deepest interest, is that of education. As jurors are the best bulwark of our civil rights, as well informed magistrates are an honor and defence in a republic, as moral and intelligent citizens constitute the pride, security, and happiness of a country, we are bound to promote the improvement of mind. Instruction may add to the resources of every individual, extend his capacity of usefulness, and enlarge the sphere of our political blessings. It is not, therefore, an unmeaning ceremony in me to offer you my congratulations on the efficient system of intellectual cultivation our predecessors have formed, on the cordial support it has received, and

on the great benefits it has produced. It is believed that no State has a plan for the dissemination of knowledge more equal and universal in its application, better calculated to raise the level of public intelligence and common worth, or more admirably adapted to the purposes of a free people. Its character is fully displayed, by saying, that it consists in employing education, at the common expense, in every village, for every family, to enlighten the understandings and form the principles of our fellow citizens. The same mode of proceeding also prevailing through the agency of towns and parishes, as to roads, to religious instruction, and to pauperism, under the most lenient system of taxation ever devised, I am proud to recommend those objects to your care, as having already conferred much of honorable distinction, and invaluable enjoyment and security to all.

With two Colleges, the Lyceum, and a large number of Academies, we have, perhaps, done enough, or nearly so, for the present, for the institution of seminaries of learning of the higher class. At least, with the admission of some possible exceptions, the obligation of improving will be greater than the occasion of multiplying them, until we shall have much farther promoted the highly respectable, yet unfinished, establishment of our common schools, which produce the most general immediate advantages. If this view be just, the patronage of the State, if it shall choose to afford any, ought, first, to be directed to extending the scope of instruction, and to perfecting it, in those schools, and to forming a new order of them for distinct female education, so that you may spread knowledge evenly over the State. Meanwhile, you will undoubtedly cherish the superior institutions, where, by concentrated means and energies, those destined to the liberal professions, and others, will be fitted for their high duties.

The citizens, under that improvement of modern ages, which withholds the prosecution and punishment of crime from private vengeance, having committed the dispensation of penal law to the State, it owes that subject its constant attention. Excluding individual pursuit, except when under its own sanction, and appearing in every case of violent injury as a party, seeking to reclaim the malefactor and to protect society, it cannot but aim to establish the most efficient preventive and corrective measures. The comparative excellence of our regulations, evinces, that the region of first principles has been explored, and, it must be admitted, that an ordinary discernment would find it difficult to detect important defects in those of our procedures, antecedent to punishment, as to which a knowledge of motive, unattainable by man, could only determine the proper rule; yet, although



our legislation and magistracy are such as to inspire confidence in the security of social order, there are some, not, I trust, in an unusual proportion, who through the mad propensities of a corrupt nature, and an undisciplined temper, connected with their uninstructed minds, are urged to brave all the consequences of guilt. What those should be, we can only learn from a close annual revision of the operation of the causes we apply, to be judged of with a discretion unbiassed by the visionary schemes of occasional reformers and theorists, which prove the sensibility of a merely speculative philanthropy to be as deleterious as the indifference of a cruel severity.

Living in a country where personal influence avails but little, and nothing but the public will, expressed by the law, is controlling, that will, taking the place of superstition and despotism, must act with decisive promptness and energy, not only in civil, but criminal concerns, so as to prevent fraud and violence. Intending these general remarks for special application, let me add, as a consequence, that our penal code, while alike free from barbarity and a self-destroying mildness, must carry with it certainty of liability and of formidable consequences, according to its own denunciation.

For this reason, and being opposed, on principle, to the exercise, unnecessarily, of any executive prerogative, it is my duty to inform the Legislature that I shall be compelled to leave the responsibility of the fate of convicts on them and the judiciary, in most of those cases in which unforeseen circumstances shall not permit the happiness of pardoning; with the advice and consent of the Council, the offenders condemned under the constitution and the laws, the moral energies of which are paralyzed, by interfering with their decrees.

As you will be in possession of many valuable documents relating to this subject, I shall here submit it, with these additional remarks only, that a provision for the best mode of Prison Discipline is found to be no less important than that for all the other procedures combined, and that if this be true, you will see strongly commended to your consideration some farther aid to the Warden of the State Prison, in regard to enlarging the building and to other objects.

The Massachusetts Claim, from a complication of causes, remains unsettled; but, resting on the magnanimity and sense of justice of the representatives of the nation, we ought not to doubt that they will provide compensation for those services rendered to the country by its citizen soldiers, during a period of danger. From the Congress of the United States, composed of worthy statesmen and patriots, we may expect the liberal policy, the moderate temper, impartial disposition.

and conciliatory measures, at once suitable to the parental relations of the Union to the States, and the obligations of the government to its militia. That assembly cannot fail, eventually, to yield the protection and reward guaranteed by the spirit of the Constitution to those who defend the nation, and will not be guilty of the injustice of punishing patriotic citizens for alleged contumacy in their officers. It will not risk the general safety and welfare by proclaiming that any act, rendered in the defence of the country, in time of war, shall be thrown out of the cognizance of the people of this confederacy.

The nature of the circumstances on which a portion of that claim is founded, and the prompt action exhibited at the moment when the apprehension of invasion was roused, are proofs of the mistaken views of those who have reiterated their complaints as to the imperfection of our Militia System, and proposed their numberless visions of improvement, among which no one seems to me more dangerous or unnecessary than applying, much farther than the provisions of existing laws warrant, the authority of the United States, already adequate to placing all our troops in actual service, if the constitutional emergencies shall so require. Our citizen soldiers are well armed, equipped, and organized, and with the love of honor, and the love of country which prevails among them, are as safely to be relied upon, as if disciplined with the utmost exactness practicable under a peace establishment. Thinking that when we are well we ought to be so far contented, as not to try rash experiments, I may with diffidence express the hope that we shall not engage in those of a national militia army. There appears to me, however, to be one defect in our regulations on this subject. The private is amenable for efficient penalties, and controlled, in the ultimate resort, by a tribunal, which, being single, produces uniformity of construction. It is this which imparts most force to the laws, in their bearing on him. Comparing this with the odious and futile plan of legal coercion of the officer, we see, that, while each private is the object of suits, without the right of appeal to a jury, or to the recovery of costs, although subjected to them, and also to writs of error, at his own expense, in prosecution or defence, each officer is considered as the being of an honest pride and honorable sentiment, to be tried by a military court of his brethren, with the aid, at the public expense, of a Judge Advocate, and only to be punished through reprimand or removal, which, perhaps, he defies, either because he calculates on the favor of the court, or is heedless of its sentence. This monstrous inequality seems to require a remedy. Allow me, therefore, to suggest, for the determina-

tion of your better judgment, whether it may not be useful, for the purposes of creating equality of rights, and effecting sufficient responsibility, to create a very small board of militia officers, as a Circuit Court Martial, with some new powers, to take the place of the slow, expensive, and heterogenous tribunals, which accomplish but little in establishing martial law or military discipline.

Obliged to offer you my sentiments, and much restrained in the developement of the reasons by which they might be sustained, I submit them, nevertheless, with great deference and satisfaction, because, as to this, as well as every other subject, your more extended information will be a corrective of my unintentional errors, while a suitable opportunity is, at the same time, improved to put those sentiments to the test to which they ought to be exposed.

With a small relative proportion of nominal, and much less of actual bank capital, it may, nevertheless, be well to inquire, whether we have not fallen into an extreme of indulgence as to the number and character of Bank charters. We have sometimes seen, and with more than salutary patience, many of the poor distressed, and many of the rich defrauded, injured, and mortified, by the throwing into circulation of bank bills, the counterfeits of money, and little better than legal forgeries. If nothing less than the heaviest pressure of governmental authority will crush this evil, it is believed, that pressure should be applied, for this reason, that, at all events, the poor, the honest, and the unskilled, are entitled to effectual aid against the oppression of powerful corporations. The able and faithful discharge of duty by the Commissioners appointed to examine the condition of our Banks, has led to reports of great merit, which will be laid before you.

The financial concerns of the State will always be a subject of deep interest with the people at large. Earning, generally, the means of subsistence for themselves and families, by slow and laborious processes, and knowing that it is not safe to trust even their chosen, confidential agents within large limits of discretionary power, they will expect the disbursements to be provided for, to be directed, not to the objects of an arrogating guardianship, but to the narrow, defined, legitimate objects of government. Under this view, if I am correctly informed, our predecessors have acted, and have conducted the public concerns with an exemplary economy. The particular facts relative to this subject will appear in the Annual Treasury Report.

There is another topic, in regard to which the embarrassment arising from the necessity of avoiding much argument or illustration on this occasion, is such that I shall not offer

you more than a suggestion. I allude to the practicability of a moderate and gradual process of simplifying, systematizing, and correcting our laws. The reverend character of the common law does not leave it unexposed to the criticism of thinking freemen; and, cautious and diffident as we must incline to be in assailing the production of many centuries of the worlds' best labors, he who has investigated the effects of many common law rules here still dominant, will pronounce them to be bad, and will see that they are retained from respect only to custom, to authority, and to antiquity. Omitting the proofs, by which the correctness of this idea might be made evident, I may be excused from further remarks upon it, as the hope of its being at a future time useful, and the belief of its being proper to reflect upon it, are my apology for introducing it.

You will, I trust, carefully revise the past political year, to see if any errors have been committed, or grievances suffered, for which a remedy or preventive may be applied. All history admonishes, that a legislature, situated as you are, should be considered as the Grand Inquest of the State, bound to exercise its superintending agency over the people and all their officers, so as always to suppress and correct, not only the ambition, favoritism, and corruption, of the executive, but the no less dangerous arrogance and licentious petulance of judicial tyranny. The officers of every department may reasonably be required, while they shall cheerfully submit to the inconveniences of their own stations, always voluntarily assumed, to yield a sedulous attention to producing those advantages and that comfort to the citizens, which cannot result alone from a morose fidelity, but spring as much from amenity of manners and the disposition to accommodate and oblige; for it is certain that an imperious administration, however strictly legal, alienates the affections, and impairs the confidence of the people. In the discharge of my duties, and, as I trust, in that of yours, this view will be a leading one.

With the Federal Government we have a most intimate relation, and the reflection must cost us all much anxiety, that if that government shall swerve from the pure principles of our revolutionary patriots, the sheet anchor of the safety of all this confederacy will be lost. Although we have an appropriate sphere of action, within which our cares will be principally employed; yet it is one of our highest duties to add to the disposition to do right in that sphere, the vigilance over the common concerns of the Union which will lead us to give it all the security and aid we can afford. We are bound, under our responsibility to God and man, to repel every invasion of the Constitution of the United States,

whether by the direct force of usurping ambition, or the artful approaches of construction. We have, therefore, the sacred duty devolved upon us to ascertain and defend the line of constitutional power ; and for that purpose, we shall derive but little instruction from the eloquent declamations or ingenious essays of any who may demand an accumulation of power, because they wish to revel in its honors, or to bask in its benefits. It is only requisite to hear the plain language of those who called the Constitution into existence, as a rule for and a restraint on government. If an administration, or a party shall pass away, we may be easily supplied again, but when the Constitution shall be undermined by construction, the people of the United States, as citizens of a republic, will be no more, and the best hopes of philanthropy will be extinguished.

Those occupying the stations in which we are placed, must have been led by the holy nature of their trust to deep reflections on their duties, and to well settled rules for the government of their official conduct.

Discarding the base motives and paltry objects of factious men, our aim, I am sure, will be to render the greatest possible service to the community, with as little evil as possible to any, even the humblest mortal who belongs to it. As beings whose official lives must be short, but whose consciences can never perish, we cannot rationally do otherwise.

In the discharge of the duties appropriate exclusively to the office I hold, the advice and testimony of others will often govern me. If any one, in this respect, shall deal with me dishonestly, the hard and heavy crime of injuring a republic, must rest on his soul forever, while mine shall be innocently free.

**ENOCH LINCOLN.**

Portland, January 4th, 1827.