

MAINE STATE LEGISLATURE

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DOCUMENTS

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THE LEGISLATURE

OF THE

STATE OF MAINE,

DURING ITS SESSIONS

A. D. 1842.

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1842.

TWENTY-SECOND LEGISLATURE.

NO. 8.]

[HOUSE.

REPORT AND RESOLUTIONS

OF THE LEGISLATURES OF

GEORGIA AND ALABAMA.

[Wm. R. SMITH & Co.....Printers to the State.]

To the Senate

and House of Representatives :

Agreeably to the request of the Governor of the State of Georgia, I herewith lay before you a Report and Resolutions adopted by the Legislature of that State, principally in relation to the proceedings of the extra Session of the 27th Congress. I also transmit Resolutions of the General Assembly of the State of Alabama, in relation to the proceeds of the Public Lands.

JOHN FAIRFIELD.

COUNCIL CHAMBER, }
January 27, 1842. }

REPORT.

THE Committee on the state of the Republic have had before it the political condition of the country, both in its General and State relations, and have deemed it necessary to submit the views entertained, in the following preamble and resolutions to the General Assembly, and to ask for them its concurrence.

The committee believe that recent events develop an organized and systematic determination, of which significant indications were offered at the late extra session of Congress, to discard the principles and policy proper to be observed in the administration of the general government.

Additional acquisitions of power, not contemplated or designed by the framers of the constitution—repudiated by the republicans of '98 and 1800, and wholly unnecessary to the vigor and efficiency of the administration of the government, are avowed as among the cherished objects of the new political reform. To such an administration of the general government, the republican party have been opposed from the adoption of the constitution; and time and experience have added innumerable proofs of the correctness of their principles, and the importance of their continued ascendancy to secure the safety and integrity of the American Union, and the sovereignty of each of the States of which it is composed.

Although at different periods in the history of the country, their principles have received temporary checks, very soon the recuperative energies of a people determined to be free, have surmounted the barriers and given them success. Ambitious and designing men have sometimes risen to power, and by torturing the constitution, have enacted laws reckless of the provisions or prohibitions of that sacred instrument; but their career has been limited; their obnoxious measures indignantly condemned; their partial and unequal enactments repealed; and the government transferred from federal to republican hands. It lights up and brightens the patriot's hope that this government will endure, when he remembers how short lived has been the domination of assumed and constructive powers, and how soon those principles which are based upon their limitation, and which recognize the constitution as their only legitimate source have been reestablished by the triumphant verdict of the American people.

“Eternal vigilance,” it is truly said, “is the price of liberty;” and it is only by the most unceasing zeal and laborious industry, rousing the latent republicanism of the land, and giving vigor to every movement, that so many and such signal victories have been achieved by the republican party; enabling them to detect and expose the insidious efforts of their opponents, first to mislead, and then to betray the people into the support of measures in direct hostility to their own rights, and calculated to devolve the most pernicious effects on the integrity and independence of the country.

The Committee believe that a crisis has again arrived, sufficient to awaken the anxiety, excite the solicitude, and stimulate the exertions of every lover of free institutions and guarded limitations of power; and it is only by sounding the alarm in season, and apprising the people of the approaching

and apprehended danger, that we may expect to arrest the evils which threaten the republic, from the adoption of a system of measures at variance with the constitutional policy of the country, and fatal to the essential principles of our civil institutions.

A new administration, obtaining power by the most lavish promises of economy, retrenchment and reform, is scarcely in the possession of the ensigns of command, when its movements attract attention, and are sufficiently marked to afford cause for alarm to all acquainted with the elevated principles upon which the government was founded, and competent to take an enlarged view of its political relations.

The convocation of Congress, and the motive alleged for the act, that of supplying an exhausted treasury, and the immediate introduction and adoption of measures tending to defeat the pretended purpose for which it was convened, by draining the treasury, furnishes abundant proof to every man not blinded by party zeal, or dazzled with the lust of power, of a secret and premeditated design to consummate a system of most objectionable measures, of which the people had received no notice, and that were carefully concealed during the progress of the presidential canvass. No more conclusive evidence is requisite to establish the mischievous views of the dominant party, and their full appreciation of the odious and unpopular character of the measures they intended thus surreptitiously to fasten on the country, than the particular period selected for the convocation of the late extra session—at the close of one of the most animated political conflicts ever witnessed, and before time was given to allay the bad passions it had engendered. The specious and pretendedly imperative reasons assigned for its call, and the real motives so soon developed, and so totally different, however

they may be viewed by honest, though mistaken party zeal, must and will receive the stern condemnation of impartial history.

The system of legislation adopted was scarcely less reprehensible than the measures submitted. The infringement of the right of debate in the House of Representatives, denying to it the character of a deliberative body—the rapid and indecent haste with which the most important laws, of the most searching and pervading character, were passed; the combinations and organizations so anti-republican in their character, and so dangerous in their tendency, by which the support of one measure was made to depend upon that of another, thus securing the adoption of all—and the general unblushing and reckless management on the part of the majority, looking alone at the ends, regardless of the means by which they were attained, have no parallel, it is believed, in the legislation of a people governed by a written constitution.

Not only have the rules of legislation adopted at the extra session of Congress—the character of the measures there proposed, and the unusual and extraordinary means resorted to, to secure their immediate passage—impressed with serious apprehensions the impartial individuals of every party, and led them to fear the introduction into the administration of the general government of a spirit of persecution, of exclusiveness, and of despotic action, at variance with the wholesome rules of American policy; but these apprehensions have been immeasurably strengthened by bold avowals of a determination to render inefficient one of the important and independent departments of the general government.

It is not within the recollection of this committee that, at any period since the formation of this government, or at any

moment, even of the most embittered party excitement, when encouraged and elevated by the flattering prospects of wielding without control the power of the country, there has been even a wish expressed, much less a determination avowed, by those who composed a majority of one branch of the government, to abridge and impair the constitutional powers of a co-ordinate department ; and to obliterate one of those checks and balances which give strength and stability to our admirable political system, the preservation of each of which, with all its original powers, and functions, can alone perpetuate the peace, harmony and integrity of the American confederacy.

Rallying under the deceptive and delusive declaration of "*the WILL OF THE NATION, uncontrolled by the will of one man,*" it is sought to concentrate all power in the hands of one branch. Shall we destroy the veto power because it is exercised by one man? If so, why not with the same propriety, and for equally cogent reasons, destroy the power of the judiciary? It is a power equal in its sphere to either of the other two, and, in its negative operations, sometimes greater than both, as it may render the law void which has received the sanction both of Congress and the Executive, and this too, by the casting vote of ONE MAN, a single Judge. In this organization of our political system, there is safety, there is stability, deriving its weight from experience and sound philosophy ; and yet an attempt is now making to abolish this power, and give exclusive control to one branch of the government, and that the least stable of the three—thus converting our admirable system, with its three separate and independent departments, each restraining the excesses and correcting the errors of the other—a system which has secured to us happiness and prosperity at home, and political

importance abroad, into a mere shadow, where every crude opinion may have weight ; where inexpedient measures may be adopted, by aid of some influential impulse, as sudden and as short as it is violent ; and where a party, in periods of excitement, and governed by the prevailing delusions of the times, may urge measures in direct hostility to the solid interests of the people.

It has produced both regret and astonishment in the minds of this committee, that acquiescence in this step, which contemplates nothing less than a radical change in our form of government, by a concentration of its powers in one branch, instead of a division, as we now have it, into three, should have been not only readily yielded, but to our astonishment recommended by a distinguished citizen of Georgia, the Honorable JOHN MCPHERSON BERRIEN, now holding the station of a Senator in the Congress of the United States. This committee deny that, in the course this Senator has pursued respecting the abolition or modification of the VETO POWER, he consulted the wishes, the interests, or opinions of the people of Georgia.

This committee believe, also, that the same honorable senator, in the support of the nomination of Mr. Everett, as minister to England, consulted neither the good of the country, nor the feelings and interests of a vast majority of his constituents. The ground upon which opposition to that appointment is based, is believed by this committee to be a sound one, which, if it had been carried out by the rejection of Mr. Everett, would have exercised a salutary influence in allaying abolition movements, and thus have contributed both to the peace and security of the whole country.

It does indeed appear somewhat extraordinary to this committee, that while we are resisting the agitation of the aboli-

tion question in every form whatever, as unconstitutional, dangerous, and tending to the dissolution of our glorious Union, characterizing, by the harshest epithets, all, who even by indirection, give to it the slightest countenance, a southern senator should be found to contribute to the elevation of one so obnoxious to our feelings and so hostile to our interest, and particularly of an individual who has avowed his abolition principles, in their most imposing form and amplest extent.

This committee are compelled by an imperious sense of duty to express their unqualified disapprobation of the course of the honorable senator upon the subject of a National Bank, and the bill to distribute the proceeds of the public lands among the States—the bankrupt bill, the revenue and loan bills, deeming most of them unconstitutional, and all of them unjust, oppressive and highly injurious in their effects, affording indications not to be misunderstood, of the loose and dangerous constitutional opinions which he entertains.

While this committee are sensibly impressed with the wisdom of the constitution in prescribing such tenure to office as may guard against sudden ebullitions of feeling, or the violence of party triumph, they feel themselves relieved from the delicate and responsible task of instruction, in accepting the invitation of the honorable senator, in his address to the people of the United States wherein he invokes the action of the legislative councils of the sovereign States of the Union. This committee, fresh from their immediate constituents, and latest in communication with them, humbly claim to have ascertained the public will in relation to those great questions upon which the Senator has invoked the expression of that will; and in obedience to the senator's requisition upon the representatives of the people, to exert themselves to give it

effect, they feel bound, for the information of the Senator, to condemn, in decided terms, the action of the honorable senator upon all the great measures which are made the subject matter of this report. Nor can the committee entertain the opinion, so adverse to the candor of the senator in seeking the information, that the invocation was made, on his part under any other determination than to regard as obligatory the expression of the public will, and to give effect to that expression, or yield his place to one who will.

This committee cannot withhold the expression of their approbation of the Executive, for his inflexible adherence to his constitutional opinions, under the most embarrassing circumstances, upon the subject of a Bank of the United States, by which the country has been spared yet longer from the blighting curse of a monied corporation, with power to sway the interests and control the business of the people of every section of this extended republic. And the measures adopted by the party to which the President is attached, to bring disgrace and disrespect upon their official head, for the conscientious performance of a public duty, are not the least among the alarming indications which, in the opinion of this committee, ought to excite the apprehensions and enlist the exertions of the people.

The attempt made to bring odium upon the chief magistrate, by contumely cast upon him in the halls of Congress—in newspapers of his own political stamp, repudiating the officer whom they had elevated to power—proclaiming him unworthy of confidence, for an exercise of the very authority which he had always claimed, of repairing the breach in the constitution whenever an opportunity offered, does exhibit a disregard of one of the departments of the government—a contempt for the established institutions of the land, and a

recklessness of party spirit, so pregnant with mischief, that, if not arrested, will relax attachment to the laws, engender dissensions pernicious and incurable, among the supporters of a wholesome government, and operate to the destruction of all moral and political obligations—wherefore,

1st. *Resolved*, That this General Assembly, speaking in behalf of the whole people of Georgia, declares its undiminished confidence in the confederated system, which forms the government of the United States.

2d. *Resolved*, That the system, as it now stands, purely administered, will protect the rights, and secure the interests and happiness of the whole people of the United States.

3d. *Resolved*, That the powers expressly granted by the constitution, and the exercise of those without which the granted powers cannot be carried into effect, are amply sufficient for all the purposes of an useful and efficient administration of our government; leaving to the States all the reserved powers.

4th. *Resolved*, That the distribution of the powers of the general government into three distinct and independent heads, Executive, Legislative, and Judicial, affords evidence of the wisdom of the framers of the constitution, and is the only safeguard of sectional rights, personal interests, and private property; and that the destruction or modification of the power of either, rendering it less independent or less efficient in its operation, would destroy the harmony and stability of our whole political system.

5th. *Resolved*, That we view the attempt now making to abolish the veto power of the Executive branch as a dangerous attack upon the liberties of the people, and hostile to the first principles of a republican government.

6th. *Resolved*, That we deny the right of Congress to

incorporate a Bank of the United States, by the name of a Fiscal Agent, or a Fiscal Corporation, or by any other name, either in the District of Columbia, or in any of the States or any territory, with or without power to establish branches or agencies, with or without the assent of the States, as being unauthorised by the letter and spirit of the constitution, repudiated by the framers of that instrument, and as not necessary to collect, keep and disburse the public funds.

7th. *Resolved*, That the act for the distribution of the proceeds of the public lands among the States is unconstitutional, was intended to lead the way to the assumption of State debts, and to create a necessity for a protective tariff, and ought to be repealed.

8th. *Resolved*, That the system of legislation by which the success of one measure is made to depend upon that of another, is not only improper and dangerous, but affords conclusive proof of the obnoxious character of some, if not all, of the measures owing their success to a species of political barter.

9th. *Resolved*, That our Senators in Congress be instructed, and our Representatives requested, to vote against the establishment of a United States Bank, in every aspect and by every name, that it may be presented, and that they use their exertions to effect a repeal of the distribution bill, the bankrupt bill, and so to modify and reduce the loan bill, and revenue bill, as to limit the sum raised for the support of government to an amount only which economy in the public service may require.

10th. *Resolved*, That the Honorable John McPherson Berrien, in requiring a modification of the veto power of the Executive of the United States, has acted without consultation with either of the political parties in Georgia, and

against the known wishes of a vast majority of the people of this State.

11th. *Resolved*, That the opinions publicly proclaimed by Edward Everett, now minister to England, of the power and the obligation of Congress to abolish slavery in the District of Columbia—to interdict the slave trade between the States, and to refuse the admission into the Union, of any Territory, tolerating slavery, are unconstitutional in their character, subversive of the rights of the south, and if carried out, will destroy this Union :—and that the Honorable John McPherson Berrien in sustaining for an important appointment, an individual holding such obnoxious sentiments, has omitted a proper occasion to give an efficient check to such sentiments, and in so doing, has not truly represented the opinions or wishes of the people of Georgia, of either political party.

12th. *Resolved*, That in our opinion, the act passed by the present Congress at its late extra session, making a donation from the public treasury of \$25,000 to Mrs. Harrison, is unconstitutional, unequal and oppressive, and calculated to lead to the establishment of a civil pension list, which will eventually saddle the people of this country with an unjust and enormous debt.

13th. *Resolved*, That the bill passed by the same Congress, to borrow \$12,000,000, for the national treasury, was not necessary to supply the wants of the federal government, if economically administered.

14th. *Resolved*, That the repeal of the act establishing the Independent Treasury, was a positive injury inflicted by the majority that passed it, upon the best interests of this country.

15th. *Resolved*, That the whig tariff or revenue bill, passed by the same Congress, is unconstitutional, oppressive, partial

and unjust, because it was not needed to support a *frugal* administration of the general government, and because it is protective and discriminating in its character.

16th. *Resolved*, That the appropriation for the Post Office Department was an unwise and prodigal expenditure of money, directly increasing the charges upon a treasury said to be already exhausted, and calculated to add additional weight to the burden of customs which now clog and encumber our foreign importations.

17th. *Resolved*, That the cost of the extra session itself, is a burden without necessity upon the people; and resolved, that the "hour rule" commonly called the "gag law"—and the rule which permitted a majority of the House of Representatives in the late extra Congress, to take a bill out of committee "without debate" were infringements upon, and a violation of the liberty of speech, and the right of the constituent to be heard through his Representative.

18th. *And therefore resolved*, That condemning as we do, the principle and expediency of these measures we unequivocally condemn and repudiate the party who thought proper to pass them upon the country.

19th. *Resolved*, That a copy of the foregoing preamble and resolutions, be forwarded by the Governor, to each of our Senators and Representatives in Congress; to the President of the United States, and to the Governors of each of the States of this confederacy, to be laid before the Legislatures thereof.

In Senate, agreed to, 30th November, 1841.

ROBT. M. ECHOLS,

President of the Senate.

Attest—DAVID J. BAILEY, *Secretary.*

In House of Representatives, concurred in, 7th December, 1841.

WILLIAM B. WOFFORD,

Speaker of the House of Representatives.

Attest—JOSEPH STURGES, *Clerk.*

Approved, 14th December, 1841.

CHARLES J. McDONALD, *Governor.*

JOINT RESOLUTIONS

Of the General Assembly of the State of Alabama, in relation to the distribution of the proceeds of the Public Lands, and to grant pre-emption rights to settlers.

WHEREAS, it has become the duty of the General Assembly of the State of Alabama, to take into consideration an act of the Congress of the United States, approved on the fourth day of September, in the year of our Lord one thousand eight hundred and forty one, entitled "an act to distribute the proceeds of the sale of the public lands, and to grant pre-emption rights to settlers." Some of the provisions of which act must materially, if not vitally affect the welfare and happiness of the good people of the State of Alabama; wherefore, it behooves their representatives maturely to deliberate what action shall be taken thereon in their behalf. Whilst this General Assembly deprecates an undue interference on the part of the States in the affairs of the general government, which properly belong to it, it is nevertheless held to be an indisputable right as well as the bounden duty of the States, in the exercise of their sovereignty, to interpose their authority, whenever their reserved rights are invaded, or any act may be done, that is calculated to affect their independence, or destroy the peace and well being of their people. In the exercise of this right the General Assembly does therefore declare that, however much the people of the State of Alabama may feel the burthens which already oppress, or may possibly be imposed on them, in order to

relieve them from the embarrassment consequent upon improvident legislation, no matter how specious the arguments may be, founded upon their necessities, they reject with *indignant scorn*, the idea that any sufferings with which it may please the Great Ruler of nations to afflict them in the shape of pecuniary embarrassments, can ever so far debase our people as to cause them to look upon gold otherwise than as dust in the balance, when compared with the proud and precious inheritance bequeathed to us by our fathers, of lofty integrity, and unbought independence, or with the no less estimable possession of the individual sovereignty of this State.

That although our sister States may entertain other and different views than those which we feel ourselves called upon to express, and may be disposed to receive their share of the national spoil, yet we will remain uninfluenced by their action; and never, by our acceptance of the proffered bribe, sanction the dangerous and immoral maxim, that the end justifies the means. We do this, because we hold our honor and independence above all price, and because we entertain a fixed and unalterable determination to maintain them, irrespective of all future consequences.

This General Assembly does further declare, that that portion of the act above referred to, which distributes the proceeds of the sales of the public lands to the several States, is a gross and palpable violation of the constitution of the United States—distributing as it does under existing circumstances, the revenue arising from customs; and that it will, unless arrested, pave the way to an assumption of the power on the part of the General Government, to seize upon the national Treasury for any and for all purposes, without regard to the source from whence its revenues may be derived,

and that it will ultimately make the several States the stipendiaries and pensioned vassals of a great central power, thereby carrying into effect the principles of old fashioned ultra federalism, as proclaimed by its most daring advocates in the gloomiest period of our political history.

Be it therefore resolved by the Senate and House of Representatives of the State of Alabama in General Assembly convened, That no authority shall be given to the Governor of this State or any other person in its behalf, to receive that portion of the proceeds of the sales of the public lands, which may be allotted to this State by virtue of an act of the Congress of the United States, "entitled" an act to distribute the proceeds of the sales of the public lands, and to grant pre-emption rights to settlers, and that the State of Alabama does hereby refuse to receive the same or any part thereof.

Be it further resolved, by the authority aforesaid, That our Senators in Congress be, and they are hereby instructed, and our Representatives are requested to use their utmost endeavors to procure a speedy repeal of the aboved recited act.

Be it further resolved, by the authority aforesaid, That the Governor of this State be requested to forward a copy of the foregoing preamble and resolutions to the Governors of the several States of this Union, and also to each of our Senators and Representatives in Congress.

NATH'L TERRY,

President of the Senate.

DAVID MOORE,

Speaker of the House of Representatives.

Approved, December 31, 1841.

BEN FITPATRICK.

A copy attest :

WM. GARRETT, *Secretary of State.*

STATE OF MAINE.

HOUSE OF REPRESENTATIVES, }
January 28, 1842. }

ORDERED, That 300 copies of the foregoing Communication and accompanying Documents be printed for the use of the House.

(Extract from the Journal.)

WM. T. JOHNSON, *Clerk.*