

MAINE STATE LEGISLATURE

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DOCUMENTS

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THE LEGISLATURE

OF THE

STATE OF MAINE,

DURING ITS SESSION

A. D. 1843.

AUGUSTA:

WM. R. SMITH & Co., PRINTERS TO THE STATE.



1843.

MESSAGE

OF

GOVERNOR FAIRFIELD,

TO

BOTH BRANCHES OF THE LEGISLATURE

OF THE

STATE OF MAINE,

JANUARY, 1843.

Augusta:

WM. R. SMITH & Co., PRINTERS TO THE STATE.



1843.

M E S S A G E .

To the Members of the Senate and
House of Representatives:

I congratulate you upon the highly favorable circumstances under which you have assembled. May not one mode of expressing a sense of gratitude on our part, for the great and numberless blessings of Providence, be happily found in a quickened diligence and increased faithfulness in the discharge of our public trusts?

For a particular statement of the condition of our finances, I refer you to the report of the Treasurer. It gives me pleasure to be able to say, that, notwithstanding the embarrassments of the times, and the considerable falling off in the estimated revenue from the public lands, the interest on the public debt, with some ten thousand dollars of the principal, and every other legal claim upon the treasury during the past year, has been promptly paid. To accomplish this, in part, it is true a somewhat onerous tax was assessed the last year. But the good sense and patriotism of the people will never revolt at the payment of a tax, which, they see to be necessary to maintain the faith and credit of the State, and to support an economical administration of the government.

The funded debt of the State is now about \$71,00,000. That portion of it which was contracted to defray the

expense of defending our frontier from invasion, and protecting the public property, in 1839, it is expected will soon be restored to us by the General Government. The remainder, incurred for the payment of bounties on the production of wheat and corn, and to provide for the ordinary expenses of the government for a series of years without the assessment of any tax, will have to be provided for in some other way. That, *it should be provided for*, though obvious enough, I cannot avoid earnestly pressing upon your attention. We see how public debt is repressing the mighty energies, and checking the progress of some of our sister States in the West. Improving by such a lesson, let us endeavor to be rid of ours as soon as practicable.

That "a national debt is a national blessing," I hold to be a political heresy of the most dangerous character. If in some countries, a public debt, by its extensive ramifications and combination of interests is made to strengthen the hands of power, and to prevent revolutions which a grinding tyranny would otherwise produce, such arguments can have no application here. With us, government is not an *usurpation*. It is not a power *adverse* to that of the people, but is a *voluntary* institution of their own. It is in fact a part of the people themselves; having, with them, identical interests and common objects. The enjoyment of equal rights, a common participation in the choice of public officers, the sentiment of patriotism, a general diffusion of intelligence, and the prevalence of a sound morality, are far better guaranties for the stability of government, than any, that merely mercenary interests can afford. Here, a large *permanent* public debt has no redeeming influen-

ces. It is essentially adverse to our true policy and principles—being incompatible with the highest political advancement and prosperity of a State. Its continuance therefore, when unavoidable, is a misfortune—when otherwise, unjustifiable. I cannot but hope, that the *gradual reduction* of our debt, with a view to its early *extinguishment*, will be a leading feature in the policy of all who may be entrusted with the management of public affairs.

Among the means at hand for this object, may be named, the amount soon probably to be received from the General Government; which, saying nothing of the balance of the “Massachusetts claim,” as it is called, will be over half a million of dollars. This sum, it is hoped will be sacredly devoted to the great object of reducing the public debt. It is true, but a small portion of the debt falls due the present year, and none in 1844—but, it is not improbable that many persons holding stock redeemable at a future day, would readily avail themselves of an opportunity to receive the amount before due. If not, the money to be received might be invested in stock of the United States, to be subsequently sold, and the proceeds appropriated to the payment of the public debt, as, from time to time, it should fall due.

In carrying out this policy, it will, of course, be necessary to continue the present tax of two hundred thousand dollars. The people, seeing it to be necessary, will bear it cheerfully. If it was folly to undertake to support government for a series of years without taxes, the sooner that folly is atoned for and we adopt a wiser policy, the better. If it was impolitic to borrow near a

quarter of a million of dollars to pay away in *bounties* to those, who, with others, must at some time be called upon to pay the very debt thus incurred, the sooner that payment is accomplished, the better. Delay will aggravate, rather than cure the evil.

Let a tax, then, be assessed, which, in conjunction with the income to be derived from the tax on Banks and with incidental receipts, shall be sufficient to meet the ordinary expenses of the Government and pay the interest on the public debt—let the whole amount to be received from the General Government, go towards the reduction of that debt—let all the net revenue hereafter to accrue from the public lands, be devoted to the same purpose—let there be the most rigid economy practiced in every department of the government—let all unnecessary drains upon the treasury be cut off—let there be no indulgence in wild speculations, nor engaging in fanciful schemes of “improvement,” and the happy fruits of such a policy, I apprehend, would soon be apparent to all.

My recommendations of last year in regard to making the payment of costs in criminal prosecutions a charge upon the respective Counties in which they accrue, and the retaining in the treasury the amount of the tax on Banks, for the payment of the interest on the public debt or other purposes, I would most respectfully renew. The views then presented have gained strength, in my own mind, by time and further reflection.

The report of the Land Agent, which is herewith transmitted, will exhibit the particular condition of that

department. The amount received by him during the past year, from all sources, is about \$36,000. This falls considerably short of what was anticipated; and so far as regards the amount due for *previous* sales of land and timber, the limited collections may be attributed to the depression of the lumbering business, and general scarcity of money. That the amount received for sales made *during the year* is small, is probably owing to the narrow limits prescribed to the Land Agent by the law upon this subject enacted at the last regular session, and to the terms of sale. I would respectfully call your attention to the suggestions of the Land Agent upon this subject. I am constrained to believe, that the change in the system from granting permits to cut timber upon the public land, to that of selling the land itself in mile sections, and that for cash, was injudicious. Under the last system, but few sales have been effected, and but a trifling revenue from that source can be expected hereafter, if the present plan be persisted in. A sagacious individual would hardly expect to obtain the full value of property, by a forced sale at auction, requiring payment in cash. How can the public expect to succeed better in such a policy than individuals?

The timber upon the public lands is constantly exposed to danger from fire—and to preserve it from pillage, surrounded, as many of our timber townships are, by lands of Massachusetts upon which operations are constantly going on, if practicable, will at least be attended with considerable expense. Would it not be better, therefore, that the restrictions imposed by the law of the last session be relaxed—that, permits be granted to an extent corresponding with the demands of business; and

upon more liberal terms, taking care that the State be fully secured? The avails will probably be as valuable to us now, to aid in the reduction of the public debt, as they will be at any future period.

The suggestions of the Land Agent in regard to roads across our unsettled territory—the appointment of Commissioners to adjust settlers' claims for land under the late treaty—to the expediency of appropriating a portion of the school fund, for the benefit of those who have just become subject to our jurisdiction and laws—and touching various other matters pertaining to his department, are highly worthy of your consideration; to which I would respectfully commend them.

The report of the Adjutant General is herewith submitted. It is gratifying to perceive, that an awakened spirit has manifested itself in regard to this truly republican institution, in some parts of the State. I cherish the hope, that this spirit may spread until all shall more fully appreciate the importance of a *citizen-soldiery*, and lend their efforts, not to ridicule and destroy it, but to maintain its honor and promote its efficiency and usefulness.

The law of the Revised Statutes which was suspended at the close of the last annual session, seems to meet with strong opposition from those who claim to be true friends of the militia. That it has serious defects, is obvious. And that much of the opposition to the law of 1834, arose from dissatisfaction with the whole militia system, I have no doubt. Where, however, opinions among military men are so conflicting, I will do no more, at the

present time, than commend the subject to your attention, with the hope, that you may so dispose of it, as to secure the good of the militia, and command general satisfaction.

I also lay before you the reports of the Directors, Superintendent and Steward of the Insane Hospital. Treating of matters so deeply interesting to the cause of humanity, and containing highly important suggestions and recommendations in reference to the interests of this noble Institution, these reports cannot fail to receive your earnest consideration.

The Committee appointed under Resolve of March 18, 1842, "to investigate the affairs and management of the Insane Hospital," and for other purposes, made a report to the Governor and Council in June last. Three hundred copies were immediately caused to be printed and distributed to the then members of the Legislature, agreeably to an Order of the House of Representatives of May 27, 1842. A copy of the same is also herewith transmitted.

By a communication from the Secretary of the Treasury, under date of November 3d, I have been informed, that under the Act of Congress appropriating the proceeds of the public lands, approved September 4th, 1841, the sum of \$17,554,90, is due to the State of Maine, which will be duly paid on the application of the authorized agent of the State.

In my address to the Legislature at the commencement of its last annual session, I endeavored to demon-

strate, not only the unconstitutionality of the Act under which this distribution is made, but its gross injustice and inexpediency. The proceeds of the sales of the public lands, it appears to me, cannot fairly be distinguished from other monies in the treasury, so far, at least, as the power of Congress in relation to their appropriation and use is concerned—especially, as a large portion of the public lands now unsold, have been acquired by *purchase* and not by cession from the States. That the Act involves the power of *taxation* for the purpose of *distribution*, seems evident—a power, no where conferred in the Constitution.

The amount thus distributed being needed to defray the ordinary expenses of the government, it is clear, that its abstraction from the treasury creates a void which must necessarily be supplied. This can only be accomplished by *taxation*, direct or indirect. For the General Government, therefore, to proffer us a sum of money with one hand, while the other is employed in withdrawing a much larger amount; pertinaciously insisting, that it is thereby conferring a *benefit*, is a palpable trifling with our common sense.

The views then entertained and expressed, have been confirmed by further reflection; and I am gratified in being able to add, seem to have been fortified by resolutions subsequently adopted by the Legislature.

Regarding the constitution of the United States as *above all price*—believing that its infraction would be poorly compensated by a paltry dividend of money, I shall appoint no agent to receive the amount said to be

coming to this State, without express direction from the Legislature to that effect.

In the new apportionment of Representatives to Congress under the late census, the number assigned to this State being less than was contemplated in the Acts of March 17th, and May 30th, 1842, further provision by the Legislature has become necessary. The district, in preference to the general ticket system, has heretofore prevailed in this State, and will, I am persuaded, continue to give the most general satisfaction. The peculiar views and interests of the various parts of the State will, probably, under this mode, be more truly represented—and the respect also which is thereby shown for the wishes of a minority, it is believed, cannot be without its salutary influences.

The question, you will perceive, I regard as one of expediency merely. For, whatever may be the power of Congress, *directly* exercised, relative to the formation of representative districts in the several States, I apprehend it has no power to direct and prescribe the action of the State legislatures. If, therefore, your opinion should accord with that here expressed, and you should determine, from choice, to adopt the district system, I would suggest, in order to guard against a misconstruction of your views, the propriety of making this unconstitutional *mandate* of Congress, the subject of remonstrance or protest.

My views in regard to banks and the currency have been, heretofore, expressed in my annual messages. It is unnecessary to repeat them—and, as they have un-

dergone no change, I have nothing to add. The report of the Bank Commissioners will probably be laid before you at an early day of the session.

A change in the time for the meeting of the Legislature, from winter to summer, I continue to believe would tend to reduce the expenses of the government, and in various ways promote the interests of the State. We are not without evidence, also, that public opinion is in favor of such change. I would, therefore, again recommend, that the question of an amendment of the Constitution for that purpose, be submitted to the people.

I transmit herewith, a report, with accompanying documents, of the Commissioners appointed under Resolve of May 26, 1842, to confer with the authorities of the General Government upon the subject of a proposed settlement of the Northeastern boundary of this State, and for other purposes.

The result and final adjustment of this question, even if it should be regarded by the people of this State as preferable to further procrastination and another foreign arbitration, *under present auspices*, I am persuaded, is far different from what they had anticipated. For myself, I can truly say, that I have been deeply disappointed, to use no stronger term. By this, however, I would not be understood as intending to cast censure upon the Commissioners of this State. They were selected by the Legislature as gentlemen of elevated standing—commanding, in a high degree, the confidence of the public, and, as eminently qualified for such a service. The correspondence on their part was conducted with signal

ability, and the embarrassments of their position, and the circumstances by which they were ultimately induced to submit the question to the determination of the Senate of the United States, are fully appreciated. But however their course may be regarded, the result is, nevertheless, a subject of deep disappointment. The course of the British Government, so far from having been, as was anticipated, conciliatory and liberal, was marked by an unyielding and grasping spirit. Its liberality, if any was evinced, was in unmeaning diplomatic compliments, while its exactions were in acres and substantial privileges. For, this State can never admit that the case presented was one of *doubtful title*, in which the adversary parties might reasonably be expected to compromise by "splitting the difference." The relinquishment of a claim, therefore, by the British Government, to a portion of what has been denominated the disputed territory, cannot be regarded by us, as in any sense, a *concession*. If a portion of this territory was necessary for the convenience of the British Government, this State had a right to expect, on its being yielded, that a full and ample equivalent in *other territory* would have been freely tendered. Towards the fulfilment of such an expectation, there has not been the slightest approximation.

The indirect overtures on the part of the British Government for an amicable adjustment of the boundary question, it is well known, were met on the part of this State, in a spirit of magnanimous forgetfulness of the past, and with a generous regard to the supposed interests and wishes of her Sister States. Earnestly entreated by the General Government, and pressed as she was by circumstances, she could not hesitate to place herself in a posi-

tion admitting of an amicable and honorable settlement of the question, confidently trusting, that the Government of the Union, in some of its departments, at least, would secure her from sacrifice. For this step, she has no cause of self reproach. It was taken under circumstances that would fully justify its repetition. How this generosity and confidence on her part has been rewarded, is seen in the result! But I forbear to dilate upon the subject, especially as it would be unavailing. If in this, Maine "has not been treated as she has endeavored to deserve," it is far from being the first instance. All her injuries, however, cannot shake her sense of duty. As a member of the Union, she will continue to be, what she has ever been, faithful and true. And if she could be satisfied that the sacrifice was necessary for the good of the Country, she could in that find ample consolation. To insolent and unfounded pretension, she can yield nothing; to the cause of patriotism and the Union, everything.

I have received from the Governor of the State of Connecticut, certain resolutions adopted by the Legislature of that State relative to the tariff, the bankrupt law, the act for the distribution of the proceeds of the public lands, and to West Point Academy, which are herewith laid before you.

The tariff, as a source of revenue, but especially by the important benefits it is made to confer upon individuals and classes, has ever been a subject of deep and absorbing interest, often strongly agitating the whole Country, and, once at least, by the extreme length to which it was pushed by private interest, threatening a

rupture of our glorious Union. That the time is near when political aspirants will cease to endeavor, by means of it, to acquire popular favor and obtain power, we have no reason to expect. But we may hope, that arguments addressing themselves to interests purely selfish, will not always, or indeed, generally, predominate over the impulses of patriotism.

It is not against a tariff, however, but its *abuses* only, that I speak. This mode of raising a revenue for the support of the government, seems now to be almost universally regarded as the most convenient and expedient, notwithstanding the impossibility, under any adjustment of a tariff, of attaining *perfect equality* in the burdens imposed, for the duty being paid by *consumers* of taxed articles, the amount of the tax must of course be, to a considerable extent, irrespective of *property*. But, the general favor with which this *mode* of taxation is regarded, does not extend to its abuses. If, in addition to the inherent and unavoidable inequalities of the system, it be made to confer *special favors* upon one section of the country, or upon particular classes of citizens, to the detriment of other sections and other classes, it becomes anti-republican and oppressive—and, violating the plainest principles of natural justice, it is not strange that it should become odious. The favors of government should be dispensed, not only with a liberal, but an *impartial*, hand.

I would not, however, be understood as opposing all *discrimination* in selecting articles for taxation. The legitimate purpose of a tariff should be *revenue*,—but in its adjustment, those articles may be favorably regarded

that are classed with the *necessaries of life*, and enter largely into the daily consumption of the poor. A reasonable protection to the industrial classes of the country, also, under a judicious arrangement of the tariff, could hardly fail to be secured—but it would be *incidental*, merely, to the main design, and would not, therefore, conflict with the views already expressed.

The tariff adopted at the last session of Congress, however, is regarded as inconsistent with these principles and views. It proposes to raise a much larger sum than an economical administration of the government requires, and is unequal and unjust in its operations. The public voice clearly calls for an essential modification of it.

Whatever opinions may be entertained as to the constitutionality of some of the provisions of the Bankrupt Act, but few, it is believed, will question that “it is unjust in its operations, and subversive of moral obligations—that it tends to encourage fraud, to destroy confidence between man and man, and to aggravate the embarrassments of the country.” Its repeal, so far as I have become acquainted with public sentiment in this State, would be regarded with general, not to say universal, approbation.

Disclaiming all right to interfere with matters of local interest merely, in any of our sister States, cases may nevertheless occur, in which their proceedings would involve consequences of such general concernment, as to justify, if not require, an expression of opinion, at least, by the governments and citizens of other States. Such,

I think, is the case presented in the contest now going on in Rhode Island. Our Republic is a confederation of States. Together, they fought the great battle of freedom—together, established their independence—and, upon common principles, instituted their respective governments. These principles assert the natural freedom and equality of man, and the perfect right of *self government*. Can these principles be subverted and trampled under foot, and that too by military force, in one part of the Republic, and all other parts of it remain unaffected and indifferent? On the contrary, I hold that in the maintenance of these principles, there is an identity of interests—that, the vindication of them, is a common duty.

Under the exercise of their right “to establish or *change* their form of government at pleasure,” the people of Rhode Island substituted a written *constitution* for the *Charter of a British King*. Under the latter, the inestimable right of suffrage was limited to a small minority; who, under the forms of law, deprived the majority of many valuable rights and privileges incident to a free government. These rights and privileges, the Constitution restored. But the Constitution thus formed, has been set aside, and the government put in operation under it, resisted and overborne by military force. It is true, that all this has not been done, without a *pretence* of right. The validity of the Constitution is denied, because the first movement of the people towards its formation was *spontaneous*, and did not originate in an *act of the Legislature*. But it is not easy to perceive how the Legislature possess such exclusive power. If

they have it, whence is it derived? The people have never conferred it upon them—nor did even the *Charter of Charles 2d* contain any provision respecting it. Can the *servants* of the people, with *limited* powers, do, what the *people themselves*, with *unlimited* powers, cannot do? To my mind the proposition involves a great absurdity.

But I refrain from attempting an elaborate view of the subject. My desire simply has been to call your attention to it, by presenting a few of its most obvious features. Should the occasion present, in your estimation, a favorable opportunity to contribute something, by way of resolutions or otherwise, to advance the great cause of human rights, and to sustain the principles which lie at the foundation of our republican freedom, you will judge whether it is not incumbent on you so to do.

As this will be the last annual communication I shall have the honor to make to the Legislature of this State, I avail myself of the occasion to express my deep sense of obligation and of gratitude to my fellow citizens, for their distinguished favor and confidence, as evinced in repeated elections and otherwise:—and, for the generosity and kindness, with which they have ever regarded the errors, which I am but too sensible of having committed. Nor can I omit to allude to the kindness and courtesy with which I have been treated by those with whom I have been associated in the administration of the government. These recollections, together with a consciousness of having faithfully endeavored, however great or numerous have been my failures, to discharge my official duties with a single aim to the good of the

State, and the best interests of the people, will be to me, in retirement, a source of unalloyed satisfaction.

JOHN FAIRFIELD.

COUNCIL CHAMBER, }
Jan. 7, 1843. }

ERRATUM.—In a part of the copies, the following error is made by the compositor. Page 3, second paragraph, second line—for “\$71,00,000,” read \$1,700,000.

STATE OF MAINE.

HOUSE OF REPRESENTATIVES, }
January 7, 1843. }

Laid upon the table, and 1,000 copies ordered to be printed for
the use of the House.

WM. T. JOHNSON, *Clerk.*