

# MAINE STATE LEGISLATURE

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DOCUMENTS

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THE LEGISLATURE

OF THE

STATE OF MAINE,

DURING ITS SESSION

A. D. 1850.

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Augusta:

WILLIAM T. JOHNSON, PRINTER TO THE STATE.

1850.

MESSAGE

OF

GOVERNOR HUBBARD,

TO

BOTH BRANCHES OF THE LEGISLATURE

OF THE

STATE OF MAINE,

MAY, 1850.

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**Augusta:**

WILLIAM T. JOHNSON, PRINTER TO THE STATE.

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# M E S S A G E .

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*Gentlemen of the Senate  
and House of Representatives :*

It is our distinguished prerogative, under Divine Providence, to shape our own destinies as individuals and as states. Here, for the first time in the history of the civilized world, is every man allowed to enjoy his natural rights; here is he allowed to possess his share of the soil—to cultivate it for his own subsistence—to adorn and beautify it for his own pleasure, and to transmit it thus adorned and cultivated, to the objects of his affection.

It is this which constitutes the prominent, the distinguishing feature of our social institutions. It is this which inspires the heart of every citizen with a fervent love of country—which gives strength of arm when called upon to defend that country. It is this which gives value without price to our institutions; and may this be a bond which shall ever hold our states in one firm and indissoluble union.

We establish our own forms of government; we enact our own laws. If we pervert or abuse this high preroga-

tive, we are criminal or foolish; if we do not transmit such blessings to posterity, we are ungrateful to our fathers and unjust to our children.

We are not fettered by precedents. Our social progress is not obstructed by laws or usages which, originating in cunning or cupidity, have entwined themselves with the very frame-work of society, and have entangled the masses in the meshes of a system of servitude more oppressive than any positive institution of slavery. I say, more oppressive than positive institutions of slavery; I will add, more degrading, because, when it exists, as in the old world, it is between men of the same race, and blood, and color.

Positive institutions of slavery, on the contrary, are generally abrupt in their origin and are so palpable and flagrant an invasion of natural rights, as to excite abhorrence and to insure their eventual overthrow.

Gentlemen, a great and growing constituency has intrusted to us the highest, the most responsible power known to the constitution—the power of making their laws. Let us see to it that these laws conform to the spirit of our free institutions, to the rules of natural right and justice; that they are based upon the immutable principles of our moral condition.

The morality of a law is, in general, the true test of its expediency. It should not, however, be that morality which adapts itself to circumstances, nor that which deals only with abstractions, but it should be a morality broad

us are the relations of man to man, deep as are the foundations of human society, and comprehensive as are all our connections with the intellectual and physical world. Such is the morality which should be the touchstone of our legislative enactments—our guide in passing judgment upon the individual and associated action of others, and not that narrow-minded, self-complacent morality, which, wiser than Deity, would overrule the laws His wisdom has imposed on our being, and with ruthless and impatient hands subvert the order of events which He has ordained from the foundation of the world.

In a youthful country like ours, under a novel form of government and with a rapidly increasing population, frequent legislative meetings and much legislation will necessarily be required. The peculiar and ever changing relations of individuals, in a state of society like ours, scarcely advanced, as it is, beyond the stage of formation, the peculiar rights and tenures of property, arising under our fundamental laws, the multifarious interests of industrial operations, will render indispensable the modification or repeal of existing laws and the enactment of new ones.

The common law of the mother country, which our fathers brought with them to our shores, as it originated in the peculiar relations of individuals and the peculiar tenures of property there, requires also *great* and frequent changes to adapt it more completely to our condition.

We cannot too vigilantly watch the working of our constitution, nor too closely scrutinize the practical operation of our laws.

Your duties are arduous, your responsibilities great ; your action may affect, for weal or woe, the vital interests of this community not only for the present but for all future time.

We possess an extent of territory which ranks us among the large states of the Union, an extent of seaboard greater than that of any other state, indented with harbors equal to any in the world. Our interior is intersected with rivers which bring the fruits of commerce to our very doors. We have a water-power sufficient to propel the machinery of the Union. These are great natural advantages. The enterprise of our people is fast turning them to productive account. Our agricultural, commercial, maritime, fishing and manufacturing interests, are becoming every year more important. In discharging our legislative duties touching these diversified objects of our care, we are not likely to be called upon to stimulate individual action. The tendency of the age is to over-action—to extravagant and dangerous enterprises.

Under a government like ours, where personal liberty and the freedom of individual action, are extended to the utmost limits compatible with the rights of associated man, where competition is not controlled, or impeded by governmental restraints, nor by corporate or privileged impositions, such must of necessity be the case. The whole history of the country illustrates and enforces this proposition. The vast expanse of territory embraced within the limits of our Union, fruitful in all the productions of the earth, and abounding in mineral wealth to an



extent heretofore unknown, furnishing encouragement to agriculture and commerce and calling into exercise all the mechanical arts, has stimulated the energy and enterprise of our people to an unparalleled degree of activity. The desire to accumulate wealth has become the master passion of the mind. There is danger that this passion, in the blind impetuosity of its rage, may obliterate every nobler feeling of humanity, may sweep away all considerations of moral and social duty.

Whatever is obtained by the sweat of the brow is likely to be appreciated and frugally used. The efforts necessary to acquire it beget habits of economy and that regard for the rights of others, which lays the surest foundation for a healthful and prosperous community. But what men obtain by easier methods, begets habits of extravagance and a disregard of others' rights, the tendency of which is to sap the foundation of all safe and wholesome social organization. Two of the most appalling crimes ever committed in this or any other country, perpetrated recently by men in the higher walks of life, have unquestionably had their origin in habits of extravagant expenditure, superinduced by causes of the above description.

It must be obvious to the most superficial observer, that the ties of moral obligation in all business transactions are fearfully loosened; that grasping cupidity is driving individuals into contracts which there can be no reasonable probability of their ever fulfilling, and which, I am sorry to say, are too often never intended to be fulfilled. Labor is deprived of its just reward. Every man whose business compels him to give credit, feels keenly and painfully

the insecurity of his situation. The utmost vigilance will not protect him ; and he not unfrequently finds himself, after a life of toil, and through no fault of his own, reduced to penury and dependence.

The foundation of all useful social organization is the mutual confidence existing among its members ; and it is one of the most imperative duties of a government to foster and strengthen that confidence, and to discourage as far as it may, every violation of it. Any law, which directly or indirectly weakens the feeling of moral obligation to perform all contracts to the utmost ability of the contractor, "impairs to the extent of its influence, the obligation of contracts," and is, in its spirit, as violative of the constitution, as would be the literal annulling of contracts. Such laws exercise a more pernicious influence, for they corrupt, to a greater or less extent, the moral sentiments of the community.

I am aware, gentlemen, that the evils to which I have alluded, are not entirely within your control. There are, however, two points at which you may approach them, and to some extent apply the corrective. I allude to the statutes which regulate our circulating medium and provide for the collection of debts.

An uniform and stable measure of value, to be found only in a sound currency, is as necessary to the safety of business and the security of private rights, as is uniformity in the standard of weights and measures ; but unfortunately it is not so easily attained.

The fluctuations in our bank currency, in times past, have had much to do with the disastrous results of many industrial operations. But to our banking system I shall have occasion to advert in another part of this communication.

The best interests of society are promoted by such laws as shall enforce the prompt payment of debts—the faithful performance of contracts. Whether our laws have been such for the past many years, as to meet this condition—whether creditors have not been left to depend upon the *honor* of their debtors, rather than upon any legal power to enforce ; whether all proper facilities consistent with a due respect for the *claims of humanity* are placed within the reach of the creditor, are questions to which I would invoke your attention.

The debtor, it will readily be conceded, should not be deprived of the means of immediate subsistence ; but that he should be permitted to enjoy comparative wealth, and to hold at defiance his honest and perhaps needy creditor, is alike repugnant to good faith and to the dictates of sound philanthropy.

Maine has a deep stake in the perpetuity of the Union. It becomes us then to exercise eternal vigilance in preserving it in the purity of the principles and intentions of its founders. While therefore, we are tenacious of our rights, we should be careful that we do not invade the rights of our sister states. We ought not to forget that under the constitution we are equal.

Our state and national governments, though deriving support from the same source, are vested with distinct powers—have distinct objects to accomplish, distinct duties to perform. They must move in harmony in order to accomplish the common good of the whole;—they move in harmony so long only as each shall move in its own orbit. To a common constituency are both alike responsible for the fidelity with which they shall perform their appropriate functions, and to that constituency is each amenable for the neglect or violation of its appropriate duties.

I do not intend to be understood as calling in question the right of the legislature to instruct our senators in congress. There may be and undoubtedly are occasions on which it is expedient to exercise this right. But in exercising it we should be quite sure that we are giving expression to the settled opinion, the deliberate will of our constituents—that we do not mistake the clamor of faction or fanaticism for the voice of the people. That the representative both here and in congress is bound to obey the instructions of his constituents, few it is presumed will deny. That constituency is, however, the people; and in order to make such instructions conformable to the spirit of our institutions and subservient to their prosperity, they should emanate from a decided majority thoroughly informed upon the subject, and they should be clearly and unequivocally expressed.

There may be, there is, such a thing as an aristocracy of opinion, not less dangerous to our liberties, not less

subversive of democratic principles, than are aristocracies of a different description. Opinions formed and acted upon under the influence of party dictation or under that of affiliated societies, whether political, moral or fanatical, must partake of this character.

The true spirit of our government demands that our political opinions, at least, should be formed deliberately and without bias, and that they should find their expression at the ballot box in all cases where legislative action is to be based upon them.

Maine is ably and faithfully represented in both branches of the national legislature. The opinions and wishes of the state upon the all absorbing question of slavery extension, have been too frequently and freely expressed to be misunderstood. In view of these considerations, I would respectfully suggest that further legislative agitation upon this exciting subject is unnecessary and may be pernicious.

The importance of our educational system is so well understood, its advantages so generally appreciated, that it can hardly be necessary that I should commend it to the fostering care of the legislature. "Knowledge is power," and it is *wealth* throughout the civilized world, under all forms of government; under our form of government it is more—it is the foundation upon which our institutions rest; it is the vital fluid which imparts health and strength to our social system. Our predecessors, impressed with the importance of "diffusing knowledge among men"—of placing the means of education within

the reach of all, have wisely directed their efforts to the improvement of our free schools and to give impress and character to our whole system of education. These efforts have thus far been eminently successful, and our schools are now in a state of progressive improvement which promises the happiest results.

The constitution and the laws contemplate that a thorough, practical, business education, shall be furnished at the public expense to every citizen. By this I would be understood to mean such an education as shall qualify the citizen to discharge his social and political duties; shall develop his natural capabilities and prepare him to direct his attention to that vocation in life, in which he can be most useful to himself and to the state.

To accomplish this we must have thoroughly educated teachers—teachers whose range of knowledge shall embrace the whole field of science and whose vision can comprehend the whole in one view. Teaching, hence, becomes a profession, a means of livelihood. The diversified tastes and intellectual endowments of men will impel some to the pursuits of science as a means of gratification, others as a means of subsistence, and will incite them to the acquisition of a degree of knowledge far beyond the legitimate scope of common school education. Carried to this extent, education becomes professional, and there is no good reason why it should be acquired at public expense, which will not apply with equal force to any of the vocations of life. Institutions of a higher grade than the free schools, are, then, necessary for the education of teachers, and for the progressive advance-

ment of science. Without such institutions as auxiliaries, also, it is believed that our free schools cannot attain to that degree of usefulness of which they are susceptible. The attempt to supply their place by intermingling literary and scientific studies with those pertaining to common schools, must be fraught with great detriment to the progress of education, and must be highly pernicious to pupils, by inciting them, in the present state of rivalry of parents and of children, to the pursuit of studies unfitted to their capacities, and to their future sphere of usefulness.

These, gentlemen, are suggestions I would not make, but that the idea seems to be somewhat prevalent, that our free schools can and should be made the only means for education—a substitute for all other literary institutions. The constitution makes it your “duty to encourage and suitably endow from time to time, as the circumstances of the people may authorize, all academies, colleges, and seminaries of learning.” Justice and sound policy would seem to dictate that you should render all necessary aid to those already established in the older sections of the state, and that you should establish and “suitably endow” others, in the new and growing sections, to the full extent of a fair demand for such institutions.

It is derogatory to the character of our state, that we have no well endowed seminary for the education of females. There are, it is true, a few institutions of this description established and kept alive by private efforts, but feeble and languishing, for the want of that efficient

aid which is due from the state, and which other states have cheerfully and liberally rendered. Our daughters, in order to acquire any degree of education beyond that of the village school, must go to Massachusetts or elsewhere, at an expense of from three to five hundred dollars a year, when all desirable facilities might be furnished to them within the limits of the state at less than half that sum.

In this connection I would direct your attention to the importance of establishing an agricultural school, as a means of advancing knowledge and diffusing information upon that department of industry, which lies at the foundation of the wealth and prosperity of every civilized people. My immediate predecessor very aptly and very forcibly presented this subject in his annual messages of eighteen hundred and forty-seven and eighteen hundred and forty-nine. For further information upon it, I would refer you to the very able report of the committee on agricultural schools, presented to the last legislature.

The report of the land agent will make you acquainted with the condition of our public lands. I need not remind you that this branch of the public interest is, in all its aspects, political, pecuniary and industrial, one of paramount importance. These lands are the property of the state, and should be managed for the equal benefit of every section of the state, and of every individual in it.

Our timber lands, it is believed, are generally unfit for agricultural purposes. To promote the enterprise of our citizens, and to invite the investment of their capital and



labor, should be the leading feature of our policy in the management of these lands, while a due regard to the wants of the future would require a prudent husbandry of them. They should not be held up as a reserved fund to replenish the treasury, nor should they be permitted to pass into the hands of capitalists to speculate, in present and future time, upon the demands and necessities for labor; but they should be made available to enterprise and productive industry, to the full extent of the fair business demand for such employment. I would respectfully suggest, as questions demanding consideration, whether the practical operation of our laws has been such as to meet these requirements—whether due facility has in all cases been given to the manufacture of lumber on our own soil—whether the laws have not had the effect to throw large and valuable tracts of timber lands into the hands of capitalists, (in some instances living out of the state,) to be used for purposes of mere speculation.

For many years past, our agricultural lands have ceased to be regarded as a source of revenue. A wise economy suggests that they should be thrown open on easy terms to actual settlers—that they may be occupied by an enterprising and thrifty yeomanry. The policy of the state has heretofore been extremely liberal in relation to this portion of our public domain; still, settlements have for many years, and especially for the last two or three, been exceedingly tardy. The failure of the wheat and potato crops, the want of a ready market, which lumbering operations would afford, have proved serious obstacles in the way. But the first of these obstacles is now passing away, and the latter, it is believed, will soon be removed.

It would seem that the small cash payment in advance now required would offer no serious impediment, but small as it may appear, however, it may prove a heavy burden to that class of our fellow citizens who would be most likely to occupy these lands. At this time, while the tendency to emigration is so strong, it becomes doubly important that our people should be furnished with inducements to stay at home. It may be questionable whether any we can offer will accomplish the object. It is a common remark, that it would be better for us to give away our lands, than to suffer them to remain unoccupied. Would it not be well to make the experiment?

I will venture to propose that a lot be given to every man who will agree to occupy it, with the honest intention of making it the place of his permanent residence, requiring such security only as shall insure the performance of his contract. Should it be thought inadvisable to offer all the lots upon the terms proposed, let each alternate lot be disposed of in this manner.

On recurring to the reports of the bank commissioners, it will be seen that the aggregate of the bank capital in the state has been about the same for the past six years, varying but little from three millions of dollars, and that the circulation of the bills of the banks has not been subject to much fluctuation during that period, averaging about two and a quarter millions. It will also appear that the ratio which the circulation has borne to the capital, has been greater for the last six years than during the preceding ten. The circulation in eighteen hundred and forty-nine exceeded only by a very trifling amount.

the circulation in eighteen hundred and forty-five. These facts would seem to indicate that the circulation has been extended (during the six years,) to the utmost limits compatible with the restrictions imposed by the laws, and secondly, that the circulation is not now commensurate with the demands of business, for it cannot be doubted that business has greatly increased since eighteen hundred and forty-five, and that the interests of the stockholders would induce them to loan to the extent of their ability.

The united opinion of all reliable business men also confirms the fact, that there is a deficiency in the circulating medium. If, then, we are to rely upon the banks for our circulating medium, (as in the main we undoubtedly must, for the present at least,) additional banking capital is required. Other means of investment have of late been looked upon with more favor. Railroads, manufactures, navigation, have presented stronger inducements to the capitalists, while they have occasioned an increased demand for money. Is it, then, the part of wisdom to discourage this mode of investment—to impose upon bank capital, burden, from which capital otherwise invested is exempt? I would respectfully suggest the propriety of repealing the law which imposes a tax of one per cent. on our bank capital. If banking be an honest business, useful and necessary, as it is conceded to be, it should be fairly treated by the government; if not, it should be dispensed with altogether. Besides, are not the advantages supposed to be derived from the tax, rather fanciful than real? The banks will endeavor to make their business productive, and the tax which they are compelled to pay to the state, they will assess upon

those who are obliged to do business with them ; in other words, upon the whole community. The tax, therefore, comes directly from the pockets of the people, to be accumulated in the treasury and then to be refunded and distributed among them in another form.

The same remarks are equally applicable to the law making it imperative on the banks to loan to the state for less than the regular rate of interest. Should it be thought that the financial exigencies of the state may render necessary the occasional exercise of this power, sound policy, as well as the rules of fair dealing would seem to require, that the state should pay what individuals are by law compelled to pay for a like accommodation.

The rapidly increasing influx of gold from California will probably soon supply us with an abundance of the precious metals for all necessary banking and business operations. May it not, then, be safe to relieve the banks, to some extent, from the restrictions imposed by law upon their circulation. Specie existing among the people is likely to be quite as secure for the redemption of bills and for all purposes of public safety, as it is where the law now requires it to be.

For the last eight or ten years, the value of our paper currency has been more uniform than during any similar period since the foundation of our government, and there has consequently been greater security in all business operations. This fact goes far to show, that our banking system has improved and that our banks are well managed.

I have been unable to obtain the reports of the inspectors and warden of the state prison for the current year, and have therefore, nothing to communicate upon the affairs of that institution. My immediate predecessor in his last two annual messages, called the attention of the legislature to the necessity of such classification of convicts, as should remove the young offender from associating with the hardened criminal. I too would commend the subject to your consideration and urge upon you its importance. To accomplish this object so desirable, a separate establishment, removed from all connection (even by association of ideas, as far as practicable,) with the state prison, will be indispensable. It should be one of the objects of all punitive laws to reform the offender and restore him to society. But the reformation of the youthful criminal can hardly be expected when he is subjected for a series of years to the influence of experienced and accomplished villains, nor will society readily admit into its bosom those whose moral nature has been exposed to the malaria of the state prison.

Experience shows that the conviction of juvenile offenders is with difficulty procured, even where their guilt is apparent, and that the sympathies of the executive are but too often painfully appealed to, in their behalf.

Retreats for juvenile offenders have been established in many of our sister states, and have been productive of the happiest results.

To the reports of the trustees and superintendent of the insane hospital, I can most confidently refer you for

very satisfactory information upon its condition. The remarks of the superintendent upon the character and the effects of existing laws on the interest of this institution and the cause of humanity as identified with it, meet my hearty approval.

The trustees in their report call for an appropriation for the erection of a new wing, to accommodate females. I join with the trustees in urging its importance.

The adjutant general's department is highly deserving of your attention. The question involved appears to be whether our militia system shall be *established* upon the basis now fixed by law, or altogether abandoned. For more full information upon this subject and for some practical suggestions, I can most confidently refer you to his report.

It is understood that the amount of our public debt which is to become due in the course of the next year, is two hundred and sixty-two thousand three hundred and fifty dollars, and it is believed that the state tax of two hundred thousand dollars, together with the money now in hand, the receipts of the land office and the United States stock, will be nearly or quite sufficient to extinguish this portion of the debt and to defray the ordinary expenses of the government. I refer you to the report of the treasurer for a detailed exhibit of the state of our finances.

It will become your duty to elect an United States senator, at the present session.

I would urge upon you the necessity of disposing of this subject at the earliest period, as a measure calculated to promote harmony and to expedite the important objects for which you are assembled.

Pledging to you, gentlemen, every effort within my power and sphere of action to aid you in the discharge of your duties, and invoking the spirit of all wisdom upon your deliberations, I wish you, a short, useful, and happy session.

JOHN HUBBARD.

COUNCIL CHAMBER, }  
AUGUSTA, May 14, 1850. }

## STATE OF MAINE.

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IN SENATE, May 15, 1850.

ORDERED, That 1,000 copies of the foregoing message be printed for the use of the House.

A. H. SMALL, *Secretary.*