

# MAINE STATE LEGISLATURE

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# RESOLVES

OF THE

## LEGISLATURE

OF THE

# STATE OF MAINE,

PASSED AT ITS SESSION,

WHICH COMMENCED ON THE SECOND DAY OF JANUARY, AND  
ENDED ON THE NINTH DAY OF FEBRUARY, ONE  
THOUSAND EIGHT HUNDRED AND TWENTY-TWO.

PUBLISHED AGREEABLY TO THE RESOLVE OF JUNE 23, 1820.

PORTLAND :

FRAYER, TAPPAN & STICKNEY, PRINTERS TO THE STATE.

1822.

Session shall be printed, the Pauper and Miscellaneous or other accounts as allowed at the last Session of the Legislature, with the Resolve or Resolves authorizing the payment of the same.

[*This Resolve passed February 8, 1822.*]

## MESSAGE OF THE GOVERNOR.

*To the Senate and House of Representatives :—*

On examining the Treasurer's account as published by order of the Legislature, I find it does not shew the expenditures of the Convention that framed the Constitution.

The accounts were laid before the last Legislature, with a request that they might be examined and settled, and a direction given, as to the disposition of the balance stated to be remaining in the Treasurer's hands.

I have never been able to find that that Legislature took any order thereon. I shall therefore direct that a copy of the accounts exhibited to the last Legislature, together with the letter which accompanied it, be laid before you, and also a particular account of the sums borrowed by order of the Convention, and of every item of expenditure authorized by that body from its commencement until its dissolution.

I have to call the attention of the Legislature to the construction of Article 5th, Part fourth, Section 4th of the Constitution of this State, by which it is provided that "no money shall be drawn from the Treasury but by warrant from the Governor and Council and in consequence of appropriations made by law." On a comparison, it will be found that this clause, so far as it respects appropriations is a transcript of the Constitution of the United States, under which, it is known, that the officers of the Treasury do not feel authorized to make any payment unless in consequence of a specific appropriation. This is one of the instances in which our Constitution is varied from that of the parent State. This alteration having, undoubtedly, been intended as an additional security of the Treasury, it be-

comes proper to inquire in what manner it was contemplated to have that effect, and what has been the practice under Constitutions containing a similar provision. From the phraseology of the section referred to, it would seem to have been the intention of the framers of our Constitution that the *probable* expenditures of the ensuing year should be distinctly brought before each Legislature in the form of an appropriation law; and the *actual* expenditures of the past year, in the form of a regular statement and account. The laws of the United States fixing the salaries of its officers, or the pay of the army or navy, or the pay of Congress, have never been deemed by the officers of the Treasury as any authority for them to make the payment. The law establishing the salary, pledges the Government for the payment of such salary, but does not make the appropriation; and without the appropriation, the Comptroller and the Secretary of the Treasury do not permit the payment. As our Constitution is in this respect like that of the United States, and as the Governor and Council have no greater authority in relation to the State Treasury, than have the Comptroller and Secretary in relation to the National Treasury, and as the practice in the latter has uniformly been, under every administration of the Government, to make payments only in consequence of appropriations, I have felt it to be my duty, previous to drawing warrants on the Treasury, to submit this question to the consideration of the Legislature. From the present situation of our finances it may not be of much practical consequence; but when its decision is considered as establishing the practice for succeeding years, more especially when viewed as a question upon the construction of our Constitution in relation to the Treasury, I trust it will not be deemed unimportant.

*Council Chamber,*

*January 16, 1822.*

ALBION K. PARRIS.

## CHAPTER XL.

Resolve for the settlement of the accounts of the late Treasurer of the Convention.

WHEREAS it appears by the report of the Committee of both Houses to whom the subject was referred, That Al-

bion K. Parris, late Treasurer of the Convention which framed the Constitution, has paid into the Treasury of the State, an unexpended balance, which was found due the State on an examination of his account, made at his request, by said Committee, amounting to two hundred fifteen dollars and three cents ; and has delivered to said Committee a statement of the receipts and expenditures while he was in that office :

*Therefore resolved,* That the said Treasurer, be, and he is hereby discharged of the balance aforesaid, and of all demands against him in consequence of his having holden the said office of Treasurer of said Convention.

*And further resolved,* That the said statement, and said account, with all the vouchers accompanying the same, be delivered over to the Treasurer of the State for safe keeping.

[*This Resolve passed February 8, 1822.*]

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## CHAPTER XLI.

Resolve granting a new trial to John Wyllie.

ON the petition of John Wyllie, of Warren, in the County of Lincoln, praying that a review or new trial may be granted to him, in the action Lucy Knox against him, which was tried at the Supreme Judicial Court, holden at Wiscasset, in and for the County of Lincoln, on the fourth Tuesday of September, in the year of our Lord one thousand eight hundred and twenty :—

*Resolved,* for the reasons set forth in said petition, That a review or new trial of said action be granted to said Wyllie. And he is hereby authorized and empowered to sue out and prosecute to final judgment, a writ of review in the action aforesaid, any law to the contrary notwithstanding.

[*This Resolve passed February 9, 1822.*]