

# 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.

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1822.

**MESSAGE**  
OF THE  
*Governor of the State of Maine,*  
TO  
BOTH HOUSES OF THE  
**LEGISLATURE,**  
*January 5, 1822.*

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

THE commencement of the political, like that of the civil year, invites to a review of the past as well as to the prospect of the future. For the blessings of the one, we have abundant reason to be grateful to our Supreme Legislator ;—in view of the other, to implore direction from the same source of wisdom and of peace. Among the favors of the past year, which call for our sincere acknowledgements, are the abundance with which the exertions of our husbandmen have been crowned ; the health and peace which have pervaded our land, and the continuance of all the inestimable civil and religious advantages secured to us by our Constitution. During the last political year, this Constitution, which had been ratified with unexampled unanimity by our fellow-citizens, has been put into complete operation, and in no part has it been found materially de-

fective. Those valuable institutions, which, under the parent State, had proved the palladium of public and private repose, have been nourished and protected here.

The enlightened and judicious exercise of the Legislative and Executive powers, have been evinced by the establishment of our highest judicial tribunal on a basis as permanent as in any State, and by filling it in a manner highly satisfactory. Our literary institutions have felt the fostering hand of government, at least, to the extent of the expectations of their warmest friends; and the general laws of the State, after an able and thorough revision, have been re-enacted without innovation. All this has been done by our predecessors: done in a manner satisfactory to their constituents, and honourable to the State and to themselves.

Collected, as you are from every portion of the State, and representing the interests of each district and town as well as the whole, you must be possessed of much local knowledge, which, when brought into legislation will be of essential service. Our great care should be to enact laws mild in their character, plain in their construction and equal in their operation. It is of high importance, that the general laws be such as to provide for the exigencies, for which they are enacted; and to my mind it is of almost equal consequence, that when well matured, and passed with due deliberation, they remain without change, unless necessary for the purpose of remedying some material defect. The principles of laws, that have been long in operation, become familiar to the people; they have been expounded by the Courts, and decisions have taken place under them, so that whatever might originally have been ambiguous has become certain.

The Constitution of this State having provided that the Governor "shall from time to time give the Legislature information of the condition of the State, and recommend to their consideration such measures as he may judge expedient," I now proceed to discharge that part of my official duty. On examining the statute book, I find, that by the Act of June 27, 1820, in cases of the condemnation of convicts to punishment by solitary imprisonment, and confine-

ment to hard labor, the sentence was ordered to be executed in the county gaols; and the counties were required, under the direction of the Courts of Sessions, to provide enclosed yards, connected with the prisons where convicts might be kept at labor. It is presumed that the execution of the law was found either very inconvenient or impracticable, as by the Act of March 19, 1821, this part of the former law is repealed, and the Court is authorized to order the punishment by solitary imprisonment to be executed in the county gaols, "as far as the situations of the prisons, the state of the convict, and the circumstances and aggravation of the offence shall render proper."

By the operation of the latter act, the punishment by confinement to hard labor seems to be substantially abandoned, or at least suspended for the present. Indeed, it is entirely impracticable, without the addition of yards to the prisons, erected and secured with reference to that object. By repealing the law, by which this was required, the Legislature seem to have been of the opinion that it was inexpedient to have thus provided.

Before the separation of Maine from Massachusetts, in all, or nearly all cases, where convicts for the more aggravated offences were sentenced to a long period of confinement, the sentence was ordered to be executed in the State Prison. This relieved the counties from a considerable proportion of their prisoners, and particularly from those of the most dangerous character. Since that time, all have necessarily been confined in the county gaols, and the consequence has been, so great an accumulation of prisoners, that some of the gaols have been inconveniently crowded. There is reason to believe, that, with the growth of our population, the number of convicts will not diminish, but, considering our contiguity to the provinces of a foreign Government, that they will rather increase. Should this be the fact, it will become necessary for many of the counties to enlarge their prisons, or for the Legislature either to erect a State Prison, or substitute some other mode of punishment in the place of imprisonment. The restraint of personal liberty, either with or without hard labor, seems to be pointed out by the general practice of civilized nations, as a

suitable mode of punishing crime against the peace and security of society. It is certainly desirable to connect with imprisonment such a system of penitentiary discipline, as will have a tendency to reform the criminal, as well as to deter him and others by the punishment, from a repetition of his offence.

In some instances where penitentiaries have been established under favorable circumstances, this effect in a considerable degree may have been produced. But the experience of this country will not warrant the belief, that confinement to hard labor, where the convict is in habits of daily intercourse, which the vigilance of the keeper cannot entirely prevent, with others whom the laws have pronounced infamous, and who perhaps before had become hardened in iniquity, has much tendency to reform the criminal. The number of culprits, reclaimed in our State penitentiaries, bears a very small proportion to the whole number sentenced, and will not perhaps equal the number of those, who are fortified in their vices and confirmed in their evil habits, by the contagion of bad example, and the corrupting influence of prison society. It may be added, that constant occupation, and the society of such persons, as, from the temper and habits of the prisoner, he would be likely, under any circumstances, to select for his companions, mitigates, in no inconsiderable degree, the sense of confinement. Solitary imprisonment is more terrible to the guilty, as a punishment, and reason and experience warrant the belief, that it is more effectual to reclaim them. In unoccupied solitude, the want of other objects to engage his attention, obliges the guilty convict to turn his thoughts inward on his own mind, and reflect on his past life and future prospects. Such reflections can hardly fail in many instances to lead to contrition, to soften the most rugged and obdurate temper, and prepare the criminal for the reception of moral and religious impressions.

The humanity of our penal code revolts from the infliction of corporal punishment, except for a few crimes of such enormity, and fraught with such danger to society, that they are thought deserving of death. There is, indeed, little reason for leaving to those, who live by prey-

ing on the honest and industrious, to choose how they shall be punished for their crimes ; but it is believed that as much mildness, as is consistent with the object of punishment, is not unwise. The certainty of punishment has much more influence in deterring from crimes than its severity. The more sanguinary the law, the less is the probability that its penalties will be generally enforced. The citizens are less ready to prosecute, and juries more reluctant to convict ; and the culprit, calculating on the humane feelings of society, is often more influenced by the chances of escaping with impunity, than by the severity of the penalty. Nor are these observations without the sanction of experience.

I have gone more fully into this subject, inasmuch as the attention of the Legislature must necessarily be soon directed to the consideration, whether punishment of the more aggravated offences shall be inflicted by confinement in the county prisons, or to hard labor, or solitary imprisonment, or both, in a State prison. At present the convicts cannot be punished by solitary imprisonment, the gaols in many of the counties being insufficient in size to afford the requisite number of apartments ; neither can they be punished by confinement to hard labor within the limits of the county prisons. The wisdom of the Legislature will determine, whether any further provision on this subject be at this time necessary ; and if found to be so, in devising a system, will, I have no doubt, keep steadily in view the saving of expense to the State, and the great objects of reforming offenders and preventing crime. Connected with the subject of the punishment of convicts, permit me to call your attention to the expenses of their prosecution. These are now a charge on the Treasury of the State, and of such an amount as to constitute a very considerable item in the annual expenditure. It is worthy of the consideration of the Legislature, whether these expenses may not be diminished.

On examination, I find that the law of Massachusetts, establishing a Circuit Court of Common Pleas, has not been revised and re-enacted here ; and on turning to the Council records, that the Justices of that Court do not hold their

commissions from the Executive of this State, except such only as have been appointed to fill vacancies. Of course that Court exists by virtue of a law of the parent State in force under the provisions of the Act of Separation, and the whole of its members in the first and third circuits, and one in the second, hold their offices during the pleasure of the Executive, instead of during good behavior, as contemplated by the Constitution. For the convenience of the citizens, as well as to enable the Executive more fully to carry into effect the provisions of the Constitution, I suggest the propriety of revising and re-enacting all the Statutes intended to be in force as law within this State, and of repealing all others. Unless this be done, it will still be necessary to resort to the volumes of Massachusetts Statutes, to find here and there a chapter applicable to our own State.

The Statute for the relief of poor debtors, having been by the last Legislature referred to a Committee to sit in the recess, from the character of that committee a report may now be expected, which will serve to assist your deliberations on that interesting subject.

I find by a "Resolve declaring the sense of the Legislature of the powers of the General Government over the Militia," passed by the Legislature of this State, June 28, 1820, that, among other things "the Senators in Congress from this State were instructed to bring the subject of the claims of Massachusetts and Maine before the National Councils, and to adopt such measures in relation thereto, as are best calculated to bring those claims to a speedy and equitable decision;—and that our Representatives in Congress were also requested to aid in the same object;" but I am unable to find that any progress has been made in what appears to have been the object of that resolution. To me it has seemed proper to refer the Legislature to the resolve, a part only of which is above cited, that they might perceive what were the sentiments of our predecessors in relation to this subject; and might now take such order thereon, as, under all circumstances, should be judged advisable.

The Commissioners, appointed on the part of this State under the Act of Separation, have recently had a meeting



with those of Massachusetts, to make preliminary arrangements for a division of the property between the two States: Their doings will be laid before you as soon as received.

It gives me anxiety, to be obliged to inform you, that in consequence of the disagreement of the American and British Commissioners under the treaty of Ghent, in relation to the true boundary between the United States and the British Provinces, the final division of the lands, owned in common by this and the parent State, will necessarily be delayed to a period uncertain, though it is to be hoped not distant. In addition to this it is understood that the claims of the British Commissioner cover a tract of country, heretofore confessedly belonging to this State, and over which it has exercised jurisdiction. Although we have no reason to apprehend that there will be any thing like acquiescence in this claim, but on the contrary that it will be resisted throughout as it has been at the threshold, yet I submit to the Legislature, whether it may not be well to request the particular attention of our Senators and Representatives at Washington to this subject, so far at least, as to collect the facts and transmit a statement for our information. I view this as the more important, inasmuch as neither the Commissioner nor agent on the part of the United States belongs to this State, and the subject in controversy is of consequence to us, both as it respects jurisdiction and property.

To a State situated like this, with several hundred miles of sea-board and frontier, whose inhabitants have fresh in recollection the incursions of an enemy, the importance of an energetic, well armed and well disciplined militia, will be duly estimated. To the many experienced members of both branches of the Legislature I refer this subject, in perfect confidence that when viewed in relation to our position in the Union, it will merit and receive all proper consideration.

I feel it my duty to call your attention to sundry resolutions of the legislature of the State of Maryland, relative to the appropriation of public lands for the purposes of education, which resolutions were laid before the last Legislature of this State. By the several acts of Congress, authorizing new States to be formed out of the Territories of

the United States, one thirty sixth part of each State so formed has been appropriated for the support of common schools, and an additional quantity for seminaries of a higher grade. The vacant lands in each Territory being the property of the United States, it follows that such appropriations have been made out of the common interest for the benefit of individual States. To this there can be no just reason of complaint, provided a corresponding benefit results to the original States.

But when it is recollected that this common fund was acquired by conquest in the Revolution or by purchase since, and that too, before the new States, which are now reaping its benefit, were in existence as such; that the price, whether of blood or treasure, was paid by the States that effected the Revolution, the reason for this appropriation for the benefit of the new States exclusively, seems wholly to fail. The policy of granting a due proportion of vacant lands for the purposes of education, is unquestionably correct. A diffusion of knowledge being highly important for the stability of any Government, so necessarily dependant as is ours upon public opinion, no friend of a republican form of Government could doubt the propriety of its encouragement by all proper means. The proposition from the State of Maryland is, by an application to Congress, to procure an appropriation of a corresponding proportion of the public lands to each of the States, to which such an appropriation has not already been made. In the furtherance of this application, so just and equitable in its nature, in which we are equally interested with Maryland, the Legislature of that State invites us to unite. Taking into view either the claims, the importance of the object, or the benefit that would result from its acquisition to this State, I cannot doubt but the Legislature will consider the subject entitled to their particular attention. I have received from the Governor of the State of New-Jersey a copy of a report and sundry resolutions, adopted by the Council and General Assembly of that State, expressing their cordial co-operation in the propositions of the Legislature of Maryland; which report and resolutions will be laid before you by the Secretary.

In connexion with this subject, it is proper to add, that our principal literary institutions at Brunswick and Waterville merit, and I have no doubt will receive, the favorable consideration of the Representatives of an enlightened people. The situation of their fiscal concerns will be made known to you by those, who have their immediate superintendance. While knowledge is power of the highest influence and first importance in a free Government, the true friends of that Government must ever be its patrons; the friends of that Government have only, in the incipient stages, to give to such power and such influence its proper direction, and the Government is invigorated by the application of its force. That direction we have every assurance is given in the institutions under the patronage of this State.

The laudable zeal recently manifested in various parts of our State in the establishment of societies for the promotion of Agriculture, cannot fail of resulting in the most beneficial effects in relation to either individual or general interest. While these associations afford the means of concentrating important information, the result of experiment and improvement, they also give facilities for its dissemination among the whole population of the State. In some parts of our country they have received legislative encouragement; with us I trust, they will ever be the object of individual support, and at a suitable period, should public sentiment justify it, of such public patronage as our resources may admit.

In consequence of the general revision of the laws, the last session of the Legislature was of unusual length. I trust we shall be able to transact all the necessary business of the present session in a much shorter time. Whatever aid, within my power, to despatch the public business and to bring the session to a harmonious termination, will be afforded; and it will be my most anxious desire, as I have no doubt it will be yours, that the result of our united labours may conduce to the peace and security of our fellow-citizens. The situation of the financial concerns of the State, and several other subjects, which will claim your attention, will be reserved for a future communication. Blessed with a healthy climate, a good soil, and superior com-

mercial advantages, we have every reason to look forward to the high destinies of our State with pleasure. Our extensive territory will afford subsistence for a vast population; our large and lengthy rivers facilitate the intercourse between the Agricultural and Commercial portions of our citizens; and the almost innumerable sites suitable for the application of water power to machinery, combined with other favorable circumstances, hold out great inducements for the investment of capital by the manufacturer.

The prosperity of this rising State, its harmony at home, and its character and reputation abroad, should interest our warmest feelings. And while we discharge our duty to our country with fidelity, we have reason to be grateful that we form a portion of a country in which the soundest principles of Government have taken deep and permanent root; that those principles have recently been recognised here and engrafted into our Constitution, and still more recently re-examined by some of the elder members of our union, and again stamped with their approbation. They are principles, which our fathers incorporated in the Constitution of our country, and which, like ancient monuments, no honest statesman will approach but with reverence, will attempt to remove but from the most urgent necessity.

ALBION K. PARRIS.

COUNCIL CHAMBER, }  
January 5, 1822. }