

MAINE STATE LEGISLATURE

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RESOLVES

OF THE

FIFTH LEGISLATURE

OF THE

STATE OF MAINE,

PASSED AT THE SESSION

WHICH COMMENCED ON THE FIFTH DAY OF JANUARY, AND ENDED ON THE
TWENTY-EIGHTH DAY OF FEBRUARY, ONE THOUSAND
EIGHT HUNDRED AND TWENTY-FIVE.

PUBLISHED AGREEABLY TO THE RESOLVE OF THE 20TH OF JUNE, 1820.

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1825.

MESSAGE
OF THE
GOVERNOR OF THE STATE OF MAINE,
TO
Both Houses of the Legislature.

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

The Constitution having made it my duty to give the Legislature information of the condition of the State, the present is a suitable occasion for acknowledging, in behalf of the whole people, our obligations to a kind and bountiful Providence, for the favors of the past year.

The last has been a season of uninterrupted prosperity to the citizens of this State. The health of the people, the success of individual enterprise, and the abundance of the produce of the soil, all direct our grateful hearts to that Being, whose riches fill the earth. May these blessings be long continued ; and may all our efforts the present year be best directed to promote the harmony and the happiness of our fellow-citizens.

While the press remains free, and our present system of free schools and general education is supported, the rights of the people will rarely be endangered by the arm of power.

Periodical elections, the great corrective principle in our form of government, afford a strong incentive to upright conduct. There can be no compensation so acceptable to a public officer, as the general expression of approbation from an intelligent people. Whoever may be thus rewarded, will realize an ample remuneration for the most laborious services, and must thereby be stimulated to still greater exertions for the public welfare.

Under our form of government, the interest of the officer is the interest of the people for whom he acts. Though invested with the highest power recognized by the constitution, the consequences of the laws he sanctions, are alike to him and the humblest

individual who feels their operation. They are the refuge to which both resort for the protection of their dearest rights, and under which both feel an equal assurance, that the blessings they enjoy will hereafter become the inheritance of their children. We, therefore, in acting for our constituents, act for ourselves and those most dear to us ; those who may be considered as pledges to society that we will perform our duty. And it is our duty by precept, by example, and as far as practicable by legislation, to restrain vice, promote temperance, industry, morality and all the virtues essential to the permanent prosperity of the people. The members of the two branches of the Legislature, coming from all parts of the State, must be particularly acquainted with the circumstances of their constituents, as well as the operation of the laws and the manner in which they have been executed in the several counties.

Most of our Statute Law was framed during our connexion with the parent State, and has been re-enacted here after a careful revision. Wherever defects have been discovered, they have been remedied ; ambiguities have been explained, and its application illustrated by able jurists in both States. Having stood the test of time and received the sanction of those who are subject to its operation, it may be presumed to be generally as well adapted to the circumstances of the people as it is possible to make it. If however the existing laws have proved ineffectual, in any instance, for the security of the person, property or reputation of the citizen, or generally for preventing those offences which endanger the good order of society, the attention of the Legislature will be directed to supplying the defect. Laws should be made so clear that every member of the community may understand them, so explicit as to leave no room for doubt as to their true interpretation, and after having been enforced for a long time and approved by experience should not be altered but with great caution.

By our Constitution it is made the duty of the Governor to "take care that the laws be faithfully executed." This duty it is impossible for him to perform except through the agency of the officers of Government resident in the various parts of the State. No law should remain a dead letter ; it ought either to be enforced or expunged from the Statute book, lest the contempt with which it is viewed, be extended to the whole code. And are there not laws of high importance to the moral health and good order of the community, to the faithful execution of which too little attention is devoted ? Who can say how many individuals may be saved from ruin, and families from wretchedness, by due attention of the proper officers to the various legal provisions for the suppression of intemperance ; or who will doubt, but that by

their strict execution many, whose misconduct has brought misery upon themselves and their connexions, might now be enjoying the fruits of good principles and virtuous habits. Our ancestors, considering that "profanity had a natural tendency to weaken the solemnity and obligation of oaths, lawfully taken in the administration of justice, and to promote falsehood, perjury, blasphemy and dissoluteness of manners," wisely provided by law for the punishment of the offence. We have adopted their language in a similar enactment, and who can calculate how many of the evils here enumerated may be prevented by a faithful execution of that Statute.

The law providing for the general education of youth is one of the most important in our Statute book. On its faithful execution may depend the character of our children, and the perpetuity of our institutions. In the Constitution of this State is recognized the fundamental principle of free government that "all power is inherent in the people." How important is it that those who are soon to inherit the rights and the power of the present age, should be capable of exercising them with intelligence and discretion. The provision relative to the character and qualification of Instructors is too valuable to remain inoperative. In none are fidelity, correct habits, purity of morals, and exemplary deportment more necessary than in those to whom are entrusted the intellectual and moral education of youth. Let all, whether in or out of office, who feel interested in the good order of society, and in the future, as well as the present condition of our community, exert their influence in aid of those laws and those institutions which form and guard the habits and the morals of the people; and may the time never arrive when our posterity shall become insensible of the advantages resulting from the district school, the social library and the parish church. Under our system of free schools the opportunity is afforded to every individual of acquiring such an education, as will enable him, not only to transact the ordinary affairs of his occupation without danger of imposition, but to perform the higher municipal and political duties which may devolve upon him. In some of the States annual returns are made of the situation of the free schools. If the organization of their system be like ours, the returns might be made annually to the office of the Secretary of State, by the Selectmen of the several towns, without inconvenience or expense, and the aggregate would show the number of children instructed in the State, and the amount annually expended in such instruction. Such a return, if sufficiently explicit, would effectually secure the execution of the existing law and prevent any delinquency on the part of towns, should a disposition ever prevail to avoid a compliance with its provisions. It

would also form a useful and interesting document, which, in some measure, would indicate the improvement of the age. The subject may be considered of sufficient importance to merit the attention of the Legislature. Our two principal Literary Institutions are diffusing a beneficial influence throughout the State, and are entitled to the favorable consideration of an enlightened community. Whenever the situation of our resources and the circumstances of the people will justify affording them further encouragement, there can be no reluctance, provided their necessities require it. The present annual grant to these institutions is by each faithfully applied to the purposes for which it was intended, and the high character of their respective officers is a guarantee that the important duty of directing the energies and the efforts of our youth in the more advanced stages of education will be discharged with fidelity to the State as well as to those more immediately interested.

The law establishing the Gardiner Lyceum, having constituted the Governor and certain other officers of the Government its Visitors, it has been my official duty in the discharge of that trust to become acquainted with the circumstances of this institution. Its establishment was a novel experiment in the country. In each of the States, Academies had been established, in which our young men might become qualified as instructors in the lower branches of education or prepared for admission to the higher seminaries. The course of instruction at our Colleges was directed principally with reference to professional or political pursuits, or to high literary attainments; but there was no institution in which those branches were exclusively taught which are particularly applicable to the agricultural and mechanical employments of the people, and to the ordinary business of life. The institution at Gardiner will supply this instruction in such a manner, that the individual who seeks knowledge in one branch only of the useful arts will not necessarily be diverted from his paramount object by attending to other branches with which it has no connexion. This plan has already excited attention in different parts of our country, and institutions somewhat similar have recently been founded in some of the largest and most enterprising of our sister States. Such establishments, which have for their primary object the dissemination of useful knowledge among the productive classes of the community, are obviously entitled to liberal support.

The last Legislature having appropriated the sum of fifteen hundred dollars for the purpose of erecting or purchasing suitable buildings and establishing an institution for the support and education of the deaf and dumb in this State, the Executive adopted such measures as seemed most likely to comport with

the views of the Legislature, and to ensure the accomplishment of the object. The first inquiry was, if a suitable person could be procured to take charge of the institution. Considering the peculiarity in the mode of instruction, there was little probability of obtaining, in this State, a person possessed of practical knowledge in that business. After repeated fruitless efforts, it was deemed expedient to make application for an instructor to some similar institution. That course was adopted, but proved equally unsuccessful. The correspondence disclosed so many obstacles to be overcome in establishing and conducting such an institution as to induce doubts of the expediency of expending the appropriation in that manner. It was however, thought advisable to extend the inquiry, and obtain further information. Accordingly, the Hon. Enoch Lincoln, one of the Representatives of this State in Congress was furnished with a copy of the Resolve, and requested to collect such information, relative to establishments of the like kind in other States, as in his opinion would be useful, and particularly to visit the institutions for the education of the deaf and dumb at Philadelphia, New-York and Hartford. The request was readily complied with and the information solicited was obligingly and gratuitously furnished. The report of Mr. Lincoln, and the correspondence with the officers of the American Asylum, will be laid before you, and will disclose the principal reasons which have induced the Executive, for the present, to delay the expenditure of the money appropriated, and to submit the whole subject to the consideration of the Legislature.

I lay before you a communication received from the Land Agents of this State and Massachusetts, relative to the sale of timber on the undivided lands, the joint property of the two States. Should it be deemed expedient to authorize a sale of any portion of these lands, or the timber growing thereon, as is suggested by the agents, it can only be done under the concurrent authority of both States. The subject will claim the early attention of the Legislature, that the result may be seasonably communicated to the government of Massachusetts.

I have no information relative to the adjustment of our north eastern boundary, other than what was made known to the last Legislature. That line remains unsettled, and is still a subject of negotiation between the American and British Governments. It is of the highest importance to the interests of this State that the negotiation be prosecuted with all convenient despatch. From information communicated to me from different sources of high respectability, there is reason to believe that depredations to a very considerable extent have been committed on our timber lands lying on the Aroostook and Matawascah and other streams

emptying into the St. John ; and that unless energetic measures are speedily adopted on the part of this government, a large portion of our valuable timber in that region will soon be destroyed. It is represented that these depredations are committed by British subjects, and on that portion of the territory of this State which is claimed by the British Government as belonging to the Province of New Brunswick. This pretended claim, it is understood, includes about one third of our territory, comprehending a great portion of our best timber land, and large tracts of superior quality for cultivation and settlement. The several communications from which this information has been derived, will be laid before you, and the subject is recommended to your special consideration.

In carrying into execution the Resolve of the last Legislature "providing for a State Arsenal," the first object was to obtain a suitable site. After viewing various situations, and availing themselves of the opinion of a number of military officers of rank and intelligence, the Council unanimously advised that the building be erected on the height of land at the westerly part of this town. A spot containing one acre and a half was selected for the purpose, and the same was conveyed to the State by the town of Portland, free of expense so long as it shall be occupied as the site for an Arsenal. An agent was thereupon appointed to carry the Resolve into effect, under whose superintendence a building of brick has been erected; seventy-five feet in length, thirty-two feet wide, and two stories in height. The building is believed to be firm and substantial, and of sufficient size to hold all the military stores of the State, except the carriages for the heavy ordnance, and such of the ammunition as it is proper should be secured in the magazine. The expense of the building, finished according to the contract made with the agent, is nineteen hundred and fifty-six dollars, which sum has been paid out of the appropriation for this purpose, leaving a small balance unexpended of the appropriation remaining in the hands of the agent, for which he will account in his settlement with the Legislature.

The subject of the Militia must ever be of high interest to this State. An institution which has rendered such important services, both before and since the establishment of our National Government, and upon which we shall ever rely as our greatest security against foreign invasion, should be encouraged rather than neglected. There has been an anxious expectation that Congress would exercise the power vested in that body, of providing for the organization of the Militia ; but that expectation having been altogether disappointed, it remains for the State Legislatures to determine whether this important branch of our

public defence is to be so improved as to be made capable of rendering adequate assistance on great and pressing emergencies. The importance of the militia of this State is increased by its local position in the Union. Our extended frontier and sea coast can be secured only by the physical force of the whole effective population; and although we may hope that the occasion for calling this force into exercise will not again occur in our day, yet it would be unwise not to be prepared for so unwelcome an event. I therefore recommend such alterations generally in the law regulating the militia as will have a tendency to render this natural and safe defence most efficient, and at the same time, as far as practicable, relieve the citizen from the performance of all unnecessary military duty, and render that which must necessarily be performed more equal and useful. Keeping in view these great objects, security to the public on the one hand, and relief to the citizen on the other, the Legislature will find ample room for improvement. In addition to the more important alterations, there are some of a minor character, which experience has shown to be necessary. Commanding officers of companies are prohibited from receiving excuses from their men for deficiencies of equipments. This prohibition cannot be considered unreasonable, inasmuch as it is made the duty of the Selectmen, at the expense of their respective towns, to provide arms and equipments for such of their inhabitants liable to enrolment as are unable to equip themselves. Cases, however, frequently occur where this provision is ineffectual, either from neglect to make a proper application, or some other cause, and the officer finds it necessary to institute a useless prosecution against one wholly unable to defray even the expense, or to violate a plain and positive provision of law. My opinion of the necessity of furnishing the officers of Infantry with the "Rules and Regulations for the Field Exercise and Manceuvres of Infantry," and also of enabling the officers of Cavalry and Artillery to avail themselves of a more perfect knowledge of the best systems of discipline for their respective corps, was expressed two years ago, in a communication to the third Legislature. The necessity still remains, as no appropriation for that object has yet been made.

In the month of March last, I received a communication from the Governor General of Canada, representing that a British subject had been forcibly seized in the City of Montreal, at the instigation of American citizens, and forced across the boundary line into the American territory, and was then confined in one of the gaols in this State, and requesting that the person in question should be restored to liberty or replaced within the British Territory. On investigation it appeared, that the individual claimed had been apprehended in a neighboring State on a charge of

felony committed against our laws, that he had been regularly brought within our jurisdiction by virtue of authority granted under the laws of the States in which he had been apprehended and through which he had been transported, that he had been tried in our highest judicial tribunal and found guilty of the felony of which he was charged, and at the time of the receipt of the application for his release was in prison in execution of the sentence awarded against him. The Provincial Governor was immediately advised of all the facts, corroborated by copies of the whole proceedings, and informed that under these circumstances the Constitution and laws of this State did not authorize the Executive to interfere; at the same time he was assured, that it is the wish of this Government, by every proper measure, to cultivate good neighborhood with the adjoining Provincial Governments, and that no acts of our citizens encroaching upon their rights had been or would be sanctioned.

The local situation of this State affords great facilities of escape to offenders against our laws, and the restraint, which a belief in the certainty of punishment has a tendency to produce, is no doubt frequently lessened from a consideration of the ease with which arrest may be avoided by flight to a foreign jurisdiction. I know of no way in which this inconvenience could be so effectually obviated as by a mutual agreement between the Governments of adjoining territory, providing under suitable regulations for the reciprocal apprehension of fugitives from justice and for their return to the Government whose laws they had violated. Such an arrangement, if executed in good faith, might have a tendency in some measure to check the commission of crimes of the more aggravated character.

The State Prison having been completed in the early part of the year, it was deemed inexpedient to remove the prisoners from the county gaols until it had become so thoroughly dried and seasoned as to cause no apprehension of injury to the health of those who might be confined therein.

In the month of June, information was given me by the Warden and Inspectors, that the Prison was in a suitable condition to be occupied, and immediately afterward I caused to be removed thereto from the several county gaols all the convicts whose term of imprisonment would not expire previous to the close of the year. The Rules and Regulations for the government of the prison, together with copies of the several reports of the Inspectors will be laid before you. At the date of the last report there were fifty nine persons in confinement, most of whom were at hard labor. The prisoners have been generally healthy. Many of those who were removed from the county gaols have improved in health since their removal. It is the opinion of the Inspectors that the establishment is judiciously managed, and that it will

answer well the purposes for which it was erected. The accounts of the expenses and disbursements, and of all the receipts and profits of the prison and a statement of its general affairs will be laid before you as soon as the same shall have been examined and approved by the Inspectors ; and the Warden will furnish any additional information that may be required.

I communicate for the information of the Legislature a statement of the expenditure of the appropriation for defraying the contingent expenses up to the first day of the present month. By the report of the Treasurer, which will be laid before you, it will appear that there remained in the Treasury on the first instant, an unexpended balance of eleven thousand one hundred dollars ; in addition to which there was at that time due to the Treasury of the tax of 1824, the sum of thirty nine thousand seven hundred and forty one dollars. The people have a right to expect a faithful application of the means they contribute for the support of Government, and that those, who superintend the expenditure of the public money, will do it with the same care as they would their own. It is the duty of the Legislature to investigate the manner in which this trust has been discharged. To aid in such investigation there will be laid before you a particular statement of all the money drawn from the Treasury the past year specifying to whom paid and for what purpose ; and the several officers of the Government will be directed to furnish all the information in their possession, or that may be derived from documents remaining in their respective departments.

The Legislature are already informed that, at the invitation of our National Government, this country is now visited by a distinguished Foreigner for whose patriotic and noble exertions in our Revolution we are under the greatest obligations. There is reason to hope that his tour will be extended to this State in the course of the ensuing summer, and that our Fellow-Citizens will then be favored with the opportunity of uniting in that general expression of gratitude which his presence and the recollection of his services have every where excited among our countrymen. The Executive will most cordially unite in such measures, as shall be thought proper to be adopted, to testify to this illustrious Friend of our Country, the high estimation in which he is held by the people of this State.

I may find it necessary to make some further communications by special message, but will avail myself of this occasion to express an anxious hope, that nothing may arise in the course of the session, which will in any manner interrupt the harmony of the Legislature, or impede the progress of the public business ; and that our united efforts may be constantly directed to the advancement of the welfare of our constituents and the character and prosperity of the State.

ALBION K. PARRIS.