

MAINE STATE LEGISLATURE

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RESOLVES

OF THE

NINTH LEGISLATURE,

OF THE

STATE OF MAINE,

PASSED AT THE SESSION

WHICH COMMENCED ON THE SEVENTH DAY OF JANUARY, AND ENDED ON
THE SIXTH DAY OF MARCH, ONE THOUSAND EIGHT HUN-
DRED AND TWENTY NINE.

Published agreeably to the Resolve of the 28th June, 1820.

Portland:

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1829.

SPEECH
OF THE
GOVERNOR OF THE STATE OF MAINE,
TO
BOTH BRANCHES OF THE LEGISLATURE.

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

ASSEMBLED here as the guardians of a young and growing Commonwealth, it is gratifying to remark that your duties relate more intimately to protecting, cherishing, and educating, than to legislating for the deteriorating or corrupted. With a Constitution and laws so formed as never to have warranted any objection to their republican character, and but rarely to the wisdom of their authors, it would be ingratitude to propose any speculative views, as it would be rashness to adopt any experimental arrangements, either of hope or discontent, which might operate against our existing system.

I am authorized by facts to congratulate you on this occasion, not only on the continued success of our own municipal regulations, dispensing, as they commonly do, the primary securities of all that law is destined to guard and preserve, in its impartial beneficence, but to accord to the United States the acknowledgement of its cherishing influence.

Some of the measures, however, of the Congress formerly assembled, have been thought to be not simply prejudicial in a national view, but exceedingly unequal in their hard pressure on this part of our Union. Without presuming to question and not doubting the high integrity and ability of the assembly which made the Tariff, and being disposed to yield a veneration submission

to its eventual decision, it is hoped you will seriously inquire whether or not there has been a sacrifice made to the cupidity of manufactures and the ambition of politicians ; and if you shall discover there has been, that you will declare accordingly the belief that you may entertain. Yet with every advantage given to limited interests, first claimed and then allowed by those, if such there are, who act on rules opposed to patriotic sentiment, Maine may defy competition, because she has superior means. She has at least, strong encouragement to engage in a friendly rivalry, and has only to appeal to her resources, her enterprise, her economy, and her industry, whenever she will rest on those supports. It has been stated in several public and some official communications, that the Tariff ought to be resisted as unconstitutional. With great respect it is suggested that the argument, pressed as it has been to dangerous consequences, ought to be more carefully used. When disunion is threatened on this account, it seems requisite to declare the conviction that the Tariff is a discretionary measure, to be corrected on policy and not on constitutionality. The Southern disunionists rely on the motive of a vote in their constitutional argument, and talk of resisting the Tariff for what was designed by it. It would be more nearly rational for the violent men who thus oppose it to regard its action, than the motives to which it owes its parentage. That a congressional measure being adopted under the combined constitutional authorities, should be submitted to, is believed to be the only safe doctrine ; yet in a case of mere Presidential and Senatorial action, there might be objections to a decision as there are in the case of the exposure of our North Eastern Boundary. It seems at last to be the correct idea, that a Tariff, although constitutional, yet being for partial if not for national revenue, as if for iron in one place and hemp in another, upon an interested compromise between those who can turn the scale of party power, is not suitable to the original intent or present object of government. As to our manufactures in single families, there can be no doubt of their superlative utility, and of the propriety of every practicable inducement to their encouragement in every family of the country, according to its taste for the useful or the ornamental.

Among the political provisions for preserving the health of our community, is that of Senatorial representation. By Senators in Congress we represent our aggregate and consolidated population and its common and combined wants and demands. It is, as you know, the Senatorial representative who is to appear for us all against invasion of the sovereignty which belongs to our republic, and who is most especially required to resist the construction which might commence, or the violence which might accomplish the overthrow of the principles on which our welfare may depend.

The recent election of a successor to the incumbent in the Presidential chair, the election of one who is to command our army and navy, direct our negotiation with all the countries with whom we make treaties embracing the civilized world, and who dispenses the dangerous power that office-seekers are corrupted with, calls on me to notice with a serious interest the vacancy which has occurred, and that which will soon occur, in the places you are entitled to fill in the Senate of the United States. It has been urged that to fill the existing vacancy, gubernatorial authority should have been applied; but it was thought to be respectful to the people, not violating any obligation, and calculated to be most useful not to anticipate your decision, but to leave the subject without any embarrassment, such, as might, perhaps have been created. As, however, there are many subjects under the investigation of the Senate, in the decision of which the participation of our Representatives ought to be admitted, and would undoubtedly be beneficial, I from this moment renounce a painful responsibility and anxious concern by a reference to the patriotism and the wisdom you will apply to the case. It is now yours entirely.

As such remarks are usually deemed pertinent to the occasion, allow me to say, without undertaking to exhibit minutely the aspect of our national affairs, that it is such, as to warrant any man in being proud that he is a citizen of these United States. A more rapid course of prosperity by a pacific policy and not by conquests and military achievements, in mutual regard, under good laws, and a good administration, may without extravagance be pronounced to be unparalled by all that history attests. To every republican it must be grateful to be persuaded that this is

the effect of public virtue; the result of respecting that which in its nature is respectable. It would be assuming too much to present the testimonies of a common prosperity, but it may not be so, to refer generally to the documents recently presented to our federal legislature as proofs of distinguished success in accomplishing the purpose of government, in executing the sublime theory that the majority of the whole should prescribe, and the benefit of the whole be the aim and end. Among those documents however, is one relating to the fortification of Maine in connection with the object of common defence, which although not new, may be worthy at present of an attention which the country may be more disposed to pay to it than it would have been at an earlier period. When the Engineers employed to form a plan for the nation, as to its defence by military means, made their observations, although men of high talents and intending only to do right, they neglected to report favorably, and as it is believed, undoubtedly as circumstances now are, the best opinion in all its relations as to the security of our principal river the Penobscot. Yet it is evident that an enemy might easily advance to Bangor, and would control, by a successful movement, of that kind, what is to be our commercial capital, and beyond that, a most valuable and extensive territory. In fact an enemy controlling the navigable waters of the Penobscot, and the towns on its borders, would have at command the region above. It seems therefore proper, when it is said by the Engineers of the Army, although enlightened and scientific as they are, that the defence of the Penobscot should be a postponed and remote object, that we should exhibit the case in the comparison which existing circumstances may render advisable, and the more readily because we know that it must not be for a selfish object, but a general end, that this view should be approved.

It is with particular gratification that I acknowledge the execution of the Resolve providing for what is usually denominated the Mattanawcook road. The liberality of the United States in its appropriation for the continuance of that great thoroughfare, creates a reciprocal obligation to meet their views and to complete the object, if any additional grant shall be required.

The last Legislature, for whom the feeling of respect for the intelligence with which it devised, and the harmony with which it adopted its measures, cannot be too fully acknowledged, engaged in the most unreserved manner in support of the establishment of our North Eastern Boundary. There is reason to believe that the expression of its sentiments was so salutary as to have attracted the attention of the nation, and to have commanded its approbation of the exertions hitherto made, and which are pledged for preventing any usurpation. In addition to this the President has yielded every possible support. A garrison has been established on our frontier, an Agent from among ourselves has been appointed for purposes in which his diligence and ability have been calculated to be exceedingly valuable, a military road has been provided for, and the case of our fellow-citizen, Baker, has been assumed under the parental care of the United States. To that individual, in policy and justice there is due an indemnity for the violence which at one time seemed to have required that the gaol at Frederickton should have been opened by coercion. As affairs now are, it rests on the magnanimity of Congress not to allow him to suffer under the very mistaken application of foreign power, or on you to provide for him, or to permit the last and most exceptionable resort, that a man who has been oppressed under the injustice of a neighboring government shall suffer in the common cause. It ought also to be stated that the advances of money authorized by your immediate predecessors for the use of Baker, have been returned by a payment from the National Treasury without objection, and with the cheerful acquiescence in the request, made more valuable from the Roman virtue displayed by the adoption, as a common one, of the cause of a humble citizen, than by any other consequence.

The decision of the dispute as to our North Eastern Boundary is referred to the King of the Netherlands, and while I submit that no reference in such a case was warrantable, yet there seems to be no objection to the personage selected; for how can he, the subject of impartial history, and not apparently dependent on any advantage from either party, being an umpire between nations, act but as the magnanimous dispenser of justice, who has the power to achieve the most glorious victory by the

suppression of the most extreme error? How can he act but in the fearlessness of his integrity, the incorruptibility of his virtue, the discrimination of his judgment, and for the honor of his throne. By his character he must be judged more favorably than to anticipate wrong.

It would seem to be improper with reference to the sentiments here entertained, to omit any opportunity of repeating the views, most solemnly believed to be correct, as to the Massachusetts Claim, that is to say, of the claim for an allowance of the services of our Militia during the late war. No one will deny that the soldiers who came, for instance, from the truly republican district of Oxford, for the defence of Portland, either advanced to their post or acted on any motive but that of the most disinterested patriotism. They undoubtedly marched to the seaboard only to resist the invasion of a common enemy. It is equally evident from arithmetical calculation that if they have been paid from the treasury of Massachusetts, they have in fact been paid in the unequal proportion of that treasury to the common treasury of the whole country. That their patriotism should be taxed for mere official defaults, would be so discouraging as to similar exertions, that it would be at least impolitic. Indeed if we do not admit the doctrine most unfortunately urged by Governor Strong, it cannot be denied that the Militia whenever in a war they shall act against the national enemy, have a just claim on the nation for rendering it protection, the protection of a part being that of the whole. Why this claim is so much neglected I know not; but that it should be urged, if the view presented is correct, is submitted to your wisdom.

The subject of the Militia although a trite, periodical and popular theme, is noticed only because it deserves the attention it receives. You must be informed that many persons very sincerely believe that the present requisitions on its services might in a considerable measure be dispensed with without injury. To this sentiment with great respect for those who are urging it, a decided dissent is offered. The revolutionary examples and experience, the constitution, the dictates of republicanism, the equalizing influence of the system, all demand, in the largest practicable proportion of population, an armed and trained mi-

litia. The extensive frontier of the State, which no regular army can defend, warns us to rely on the courage and means of the whole people, who ought to be ready and able, at least, to the extent that the soldier of a regular army will be, to secure their country from usurpation, or to resist its invasion. In the last war if such a sentiment had not prevailed, and but for the preventive effect being fortunately far superior to the corrective action, and it being known that an armed yeomanry properly organized is a dangerous foe, we should have become a Province.

Wishing however to avoid argument, permit me, as constitutionally bound, to lay before you briefly the objections it has become necessary to state against the repeated and urgent demands for a legislative subversion of our present military establishment, to be followed as may be feared by the imposition of one calculated to be dangerous to our liberties, that of a militia organized and paid directly and exclusively by the United States, who will in the end tempt the States to that fatal measure, as they have been tempting in other cases.

The civil and social effects of our militia arrangements, are not less calculated to sustain our institutions, than can be courage and discipline to defend the country.

Never was there an instance of the overthrow of despotism without a militia, nor an efficient militia without trainings.

In every case of danger from the time of alarm before the revolution to this period, special preparation has been made by trainings, and we ought always to be specially prepared.

Trainings lead to that acquaintance between Officer and Soldier, which fits them more advantageously to act together, both in preparatory measures and final procedures.

Military duty, if for the equivalent of defence and for freedom is no more a hardship than any tax; and if for the common good, no tax is a hardship, but a benefit.

The inequality urged against this mean of resistance to invasion or domestic tyranny, does not exist, because in other cases property is taxed for persons, and in this case persons are armed in part to resist the tendency to aristocracy and usurpations, and thus a balance between the different orders of society is adjusted. As to discipline, although it is urged to be too imper-

fect for any valuable effect, I have only to assert my conviction, that with the exception of scientific objects it is sufficiently good.

As to commissions, they ought to be considered as the hallowed muniments of an honest and popular credit, to last to future times, as should be such elections as have placed us here, being the testimony of our countrymen that they deem us worthy to be employed.

These propositions would appear to be offered in supererogation, if they had not reference to an object, or rather to an opinion which, if you shall not approve it, you will not, it is hoped, censure the submission of it to your better judgment, especially as the object is to prevent the trouble and expense of Courts Martial, now considerably burdensome to the State.

The private, as you know, is compelled to his post, and amenable not only on the principle as valuable and dear to him as to his commander, of honor; but his interest is also pledged in his liabilities to fines and costs, to loss of time, expenses and inconveniences. Such is a very imperfect view of the condition of the private. As to the officer, let me freely present the contrast. We have borrowed from the regular army where officers serve under pay and under much of dependence in character and interest on their fidelity, the idea that cashiering must be equally formidable with us, and that pride of character is a sufficient security against an exposure to so unfortunate a result. Believing this impression to be wrong, while I am bound to acknowledge the great worth of our corps of officers, it appears a necessary result of the comparison to propose for your consideration the providing for them a similar liability to that of soldiers. As far as relates to those officers who receive a compensation for service, it would not seem to be a violent innovation to take the course proposed. This reservation has however been kept constantly in view that the power to fine and impose cost should be discretionary at the commencement of such a system with the Court, and as one citizen, I would cheerfully consent if the public shall unjustly prosecute a defendant that he shall have the same right as exists between individuals, the right of indemnity.

The different opinions as to this valuable institution have seemed to challenge the exhibition of those of the officers honored by a joint official association with the soldiers and legislators of the State, but there is another object of no inferior consequence now to be noticed from views in some respects quite different. It is, after offering my congratulations on the success of the measures required to promote education, especially in our primary schools, that of a procedure by the Gardiner Lyceum calculated, with sufficient encouragement to produce most valuable consequences. That Seminary of preparatory instruction in the arts, and particularly in agriculture, has commenced, as I have incidentally learned, a system of promoting by premiums the production of particular articles of the soil. For various reasons no mode of public assistance so well deserves public patronage. The article, to which, as essential to commercial and other interests, that estimable seminary has directed its attention, is the article of hemp, to which flax ought to be added. These would, from success in cultivating and manufacturing them, cause a revolution by which New England would be independent of the world, and therefore never fretful and jealous, as being united with it. Above all, she might safely say, to our brethren of the South, "if you shall choose non-intercourse as to our manufactures we will hold ourselves at liberty to leave your cotton on your wharves," and perhaps it might be well to add "your sugar." "Let us be friends, but we will not allow to your impatient ardor of temperament any chances of severing this Union. We will command such means that you shall not presume to hope anything as to impairing the Constitution our fathers bequeathed, from the fears of an interested connexion in purchasing and selling." To unequal duties however, to an unfair revenue system, if you can call me to concurrence in any other objection, it will not be refused. Yet it seems to me the fact, that the sufficient appeal is to the extensiveness and fertility of our lands. In our population occupying them, and its character is always a healthful security, Maine ought to be a republic safe in itself.

It is not designed to swell this communication by unnecessary remarks, and it is therefore only subjoined on this topic that the

confiding and respectful regard which should be paid to each other by the States, and by them to the nation, should not be considered as executively compromised by what has been urged. Yet on the other hand, that there should be no trespassing violence, no sectional ambition or proscription, no dishonorable competition; but that they should be resisted always by means calculated to perpetuate the blessings and secure the glory of the country.

Belonging to the subject of education is the dissemination of knowledge in every form. It becomes of consequence a duty to commend to your patronage two works, my acquaintance with one of which convinces my judgment that its wide distribution through New England would so add to the spirit of emigration and the value of our lands as to throw out the consideration of the cost. I allude to a statistical work by Moses Greenleaf, whose eminent ability and distinguished topographical knowledge will be also illustrated by a map appurtenant to the work above mentioned.

It is with pleasure too that the liberal spirit with which instruction and the diffusion of knowledge has been acted upon, is offered as warranting the recommendation to your encouragement of a History of the State, by William D. Williamson. As such, and it is only known to me that one is nearly prepared, it cannot, as is respectfully suggested be less than honorable, if a revision should authorise such a sanction, and the character of the author leads against doubt, to aid in extending its circulation. The production will be submitted to your consideration.

From respect to communications made to me and to the nature of the subject, it has become almost imperative to offer some sentiments as to the relations of debtor and creditor, and as to our penal code. Regarding the former subject, in a young State, credit is its capital; but credit must depend there on the laws which bind its pledges, on the stern justice which, being super-added to the influence of honor, is the barrier to temptation and the terror of fraud. Omitting therefore the cases of misfortune, which the conservative moral sentiment, and rescuing sympathies of society usually provide for, it may be feared that the practice of easy, manageable compositions with creditors may be indulged

to a degree to impair the character of our State. It is especially to be so apprehended when we reflect that the wary and prudent do not usually belong to the losing party, but that the benevolent and confiding, the good and generous, are commonly there engaged and there devoted. If you can prevent the long distress and dreadful sacrifice of families who fall a prey to the adventurous and the rash, if you can save the kind, the unsuspecting and the ignorant, from the cunning, the dishonest or the careless, surely you will be disposed to do it. In that view and none other is the present doctrine and practice as to assignments to creditors, submitted to your correction as being substantially what is called an insolvent law, which might be improved or abolished with advantage.

In connection with this is the latter subject, our penal code and all that relates to the penitential establishment at Thomaston. I have feared that the executive department may be considered as not having done enough under the special authority with which it has been invested. The facts however will be fully exhibited and it is now committed to your wisdom to regulate the future proceedings, as well as to determine on the past. It is believed that your attention to the subject is required by the facts, the developement of which may probably be most advantageously dispensed with on this occasion. The documents which have been obtained will be left on the table.

There are several other subjects, requiring in some mode executive explanations, because they have been submitted to executive direction, such, for example as the New Hampshire Boundary, and the public buildings ; but as there are documents in all these cases it is presumed that the submission of those by leaving them in your possession, may be as agreeable and useful as any other mode of communication. It should however be mentioned that the peculiar advantages of the place for our public buildings, are enhanced by the discovery of a granite quarry on the site selected. Yet you will perceive that the appropriation of land made by the last Legislature has fallen short of the object intended, although the final expense of a simple, solid and convenient structure will be much diminished by the discovery named.

Allow me to subjoin as a general observation that no one can be more fully conscious than myself that we are acting in behalf of a State eminently requiring the aid of vigilance, prudence, public spirit, intelligence and an impartial integrity in the administration of its government. He who will justly anticipate the vast production of good or evil in such a soil, will be careful as to what he shall plant. And although the intrenchments we have formed, and the men who guard them may be destroyed, it is a consolation to believe that such an effect cannot soon or easily be produced, and not until the beauty and the benefit of agriculture and the arts, enjoyed under equal rights, shall have distributed much of happiness.

ENOCH LINCOLN,

COUNCIL CHAMBER,
Portland, January 8th, 1829.

I have feared that the Executive Department may have labored as not having done enough under the special authority with which it has been invested. The facts however will fully exhibit and it is now considered to have received a full and fair trial in the late the future proceedings, as well as to be deserving of the praise it is believed that your attention to the subject is required by the State - the development of which was probably the most advantageous - the progress of the cause - the result of the which has been decided will be for the benefit of the State. There are several other reports which I have received relative to the same subject, and I have been directed to give direction, such for example as the State of the building and the public buildings; but as there was no mention of these cases it is presumed that the same should be reported in your possession, and it is presumed that you should be informed of any other mode of proceeding. It should be mentioned that the same building was not yet completed, and the public buildings were not yet completed, and the same building was not yet completed. It is presumed that you should be informed of any other mode of proceeding. It should be mentioned that the same building was not yet completed, and the public buildings were not yet completed, and the same building was not yet completed.