

MAINE STATE LEGISLATURE

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RESOLVES

OF THE

TENTH LEGISLATURE,

OF THE

STATE OF MAINE,

PASSED AT THE SESSION,

WHICH COMMENCED ON THE SIXTH DAY OF JANUARY, AND ENDED ON
THE NINETEENTH DAY OF MARCH ONE THOUSAND EIGHT HUN-
DRED AND THIRTY.

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

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

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

THE new and responsible relation in which I stand to you and to the people, cannot but bring with it the associations which have accompanied the performance of the duties of another, in the Executive department of the Government for the political year which has just expired.

The sudden removal by death of my predecessor, in the first Executive office of the State, from the service and honors of the public, has excited the deepest sensibilities of his immediate associates, and should impress upon us, not only a recollection of the transient and evanescent tenure of public and official station, but of life itself ; and that the results and consequences of our councils and our acts as public agents, will, in all probability, in a greater or less degree, effect the public interest, when we shall also have passed from the scenes of the present life.

No selfish views aside from the public good, can properly enter into the administration of a Government instituted, maintained and preserved to aid and promote the true happiness of the whole society for which that government has been ordained.

The legitimate ends to be obtained by Government are few and simple, and are presented by the common *Ruler* of human affairs, to the perception of all minds, in a form too tangible and plain to be misunderstood, or to escape the powers of comprehension common to all men, and might be readily anticipated, even without the benefit of experience. The very nature of

man is adapted to the social condition; and the end of Government must be the correction of natural and moral evil incident to that nature and to that condition.

Although the end of Government is thus simple and plain, the means of producing it, amidst the various, complicated and multiplied circumstances of human condition and of human frailties, has rendered the knowledge of Government, proverbially, the most difficult of all sciences. To render it therefore in any tolerable degree perfect and permanent, is a task that has baffled human experience and human effort in past ages of the world.

Such is the constitution of human nature in its best estate, that the individual is inclined to seek his own objects and purposes of happiness in modes and channels inconsistent with those of the whole community. Hence the insecurity of vesting permanent power, for the purposes of Government, in the hands of individuals or a combination of individuals, less than a larger part of the whole, who are designed to form a social compact. But in this form of society, the insecurity incident to that, where the power has been deposited with an individual, or a limited number of individuals, becomes doubly insecure, from the difficulties attendant on the *exercise of powers* thus retained in the whole body of the community; and the usual result has been, that monarchy and aristocracy prevailed, and seemed under such circumstances best calculated for the purposes of society, as well as to stand the test of time.

It has been left to our own age, and to our own country, successfully to bring into being a form of government, that leaves the power vested in the majority, and delegates the exercise of it, to individuals for short and limited periods of time, restrained by chartered rules, suggested by the experience of ages, and matured, approved and ratified by the consent of the majority, and to be observed and kept until dispensed, or altered by the same mode.

This form of social compact has obtained the appellation of Republican, because it is supposed practically to consult the equal happiness and welfare of the whole, instead of a part of a community. And inasmuch as its objects ought not to extend beyond those included in the compact, its powers are to be exercised with a single eye to promote the happiness of the nation,

who formed it. The individual belonging to such a Government is bound to banish and discard all selfish desires and sectional interest, inconsistent with the common good ; and the exercise of the legitimate powers delegated to him, is restrained to the object of promoting the happiness of the nation, leaving all other communities the right of attaining the same end.

This being the theory of the government, we are called to administer, let us submit every private and local interest to the test of its consistency with the common good.

It is necessary, that in the proper discharge of the respective trusts assigned us by the suffrages of our constituents, that we keep constantly in view the great out lines and first principles of a Representative Government ; and that we observe, not merely the letter, but the spirit and design of the fundamental doctrines prescribed to us in the Constitutional charters limiting our powers and sphere of action. These principles and doctrines are summarily embodied in the written charters which we have solemnly pledged ourselves to regard. But owing to the imperfection and mutable character of human language, and the different aspects and circumstances, under which we may be called to give an interpretation, much room is left for difference of construction. Under these difficulties our safest guide will be, to determine the object which was most reasonably intended to be attained by any rule prescribed for our direction ; and having satisfactorily arrived at this determination, and discovered the purpose intended by the rule, we shall not be apt to commit gross error, nor to swerve widely from the path of duty. By this course we are placed in the attitude of the Lawgiver, and in this situation are most likely to perceive the end and design proposed by the power, which prescribed the rule of action at any time submitted for decision.

The common defence of our country, of which our State constitutes an integral member, the regulation of its intercourse with other independent powers, as well as the management and direction of such internal affairs as were thought essential to the well being of our Union, were committed by our fathers to the united councils of our Federal Republic.

It is now more than forty years since the affairs of our United Republic have been under the direction of a President and

Congress. The number of States have been nearly doubled, the whole population increased in a ratio, unparalleled in the history of nations, the necessaries, comforts and conveniences of life have been multiplied, perfected and diffused, to a degree unknown to former ages. We have been safely conducted in our onward course, amidst the conflicts of other nations, and have sustained one in our own defence, which gave new lustre to our national character, tested the energies and capacities of the government, displayed the cool bravery of our people, developed the resources of the nation, and has laid that foundation for the respect of other powers, which constitutes and furnishes to a good degree, the best assurance of future peace.

The success and stability of our Government and general prosperity of the people under its administration, for such a period of time, has given strong proof to the world, that Republican principles have taken too deep root in American soil, ever to be overthrown, or extirpated. Should their lustre be obscured by the practices or examples of any administration, we may feel the fullest assurance, that the intelligence of the American people will be competent, eventually to distinguish reality from fiction, and will never sanction such as shall be shown to produce evil, of any magnitude to the public interest.

To our sphere, is emphatically reserved the authority, and to us remains the duty, of correcting and remedying the natural and moral evils, incident to the social condition in the domestic concerns of the State. The usages which have been sanctioned by experience and sound reason, and a general code of legislative enactments, constitute the legal restraints of our standing Laws.

The remedies for natural evils and impediments to the highest social enjoyment, arising from causes independent of moral agency, are frequently postponed, in the care and concerns of Government, for those of lesser moment. In connection with this sentiment, I submit the enquiry, whether the time has not arrived which calls for the united means of the people to aid in the relief or abatement of personal suffering, caused by the loss or defect of the natural senses, or by *mental derangement*.

Provision has already been made by former Legislatures to ameliorate the condition of the Deaf and Dumb. And I now submit to your consideration the enquiry, whether the more nu-

merous cases of *Lunacy*, are not equally entitled to your sympathies and favourable regard. The safety of the people, and of our towns and villages, in very many instances, requires the confinement of the individual, and humanity loudly calls for such appropriate means of relieving and restoring to enjoyment and usefulness, those unfortunate beings who are bereaved of reason, which means, are now not only beyond the reach of the poor and friendless, but cannot be commanded by the ordinary ability of our citizens or towns, on whom the duty of providing for their support may fall.

The common Prisons now assigned by law as the places of restraining the furious lunatic, are poorly adapted to the purpose, and afford no proper means for that restoration or relief, which the improved skill of the faculty of medicine, has taught us to consider as efficacious or highly beneficial, in numerous cases of this disorder.

The parent State, from which we have separated, has not been unmindful of providing, in connection with the munificence of the philanthropist, an Institution for the most efficient relief of humanity, suffering under mental derangement and bodily disease.

It cannot escape the most cursory observation, that the largest portion of the present Industry of Maine is directed to agricultural pursuits ; and as our timber is destined to be diminished sooner or later to a domestic supply, it may be good policy so far as may be within the means and ability of the State, to encourage the formation of Agricultural Societies.

We can hardly expect that individual efforts alone, are competent readily to introduce and diffuse a knowledge of the improved modes and processes of culture, and of the relative value of products which may be adapted to our soil and climate.

Should the market value of Hemp continue what it has been for several years past, it is believed by many, whose opinions are entitled to great respect, that in connection with improved machinery, now known and used in some of our sister States, in preparing it for the market, the culture may be introduced in many parts of Maine with a fair prospect of important advantage to the State. It is highly probable that the means of giving a bounty, bearing some proportion in the estimation of competent

judges, to the importance of the advantages to be derived to the State, in case of successful experiment, would elicit demonstrative evidence of the value of a product, hitherto unappreciated by the people of Maine. If so happy a result should follow from a competent experiment, it would give an additional value to our numerous water-falls adapted to give motion to machinery, as lumber shall decrease.

It will be the duty of this Legislature, pursuant to the Constitution, to make provision for a general valuation, and to cause the number of the inhabitants of the State to be ascertained; and an early attention to this subject is recommended.

Our Militia system, being a compound result of the authority delegated to the General Government, and of duty imposed by the federal charter upon the States, cannot be entirely dispensed with. And were it within the sphere of State power, it requires no stretch of foresight to anticipate the evils which would flow from its dissolution; but still it becomes a duty to inquire, whether the unequal sacrifice of time and money, the effect of the present Laws, relating to ordinary Militia duty, cannot be in some degree remedied without essentially and necessarily impairing that degree of efficiency, for which the establishment was designed.

The affairs of the State Prison at Thomaston, demand of the Legislature the most careful attention. Since the thirtieth of April 1823, more than seventy thousand dollars have been drawn from the Treasury of the State on account of this establishment, to which sum, must be added the earnings of the convicts, to make an estimate of the total expense. The committee appointed by the last Legislature on the affairs of the Prison, made to the Governor and Council in June last, a report in part, and in January a report in full, which are herewith laid before you.

I would particularly recommend an examination of the causes, which have rendered our State Prison so expensive, compared with those of other States; and in this examination, an inquiry into the advantages originally anticipated in the location of the Prison, appears to me, to be of great importance. If the location is such, that the Prison cannot, by the best management, be rendered other, than a perpetual and heavy expense to the State, the sooner the Legislature know it the better. On the other

hand, if Thomaston is found to be the most suitable place, I am of opinion, that the prison-yard and wharf may be enlarged to great advantage, and that a further appropriation will be necessary to meet the expense.

The Land Agent has made to the Executive his annual Report, and when his accounts for the past year are settled by the Council, copies of the same and his account of sales, will be transmitted to the Legislature.

I consider the subject of the Public Lands the most important, which will come under your consideration. On account of inaccuracy of surveys, the Land Agent has been obliged to insert a clause in his deeds, that in case the tract conveyed may be found, not to contain the quantity represented, the purchaser shall have no claim upon the State, for the deficiency. Here is a loss in the out set ; if such uncertainty exists, in consequence of imperfect surveys, no prudent man will give so high a price for land, as he would, were it otherwise. Neither the Government nor its agents appear ever to have had a proper knowledge of the value of the lands granted, or offered for sale, nor have been able to give correct information to those who were disposed to purchase. On the plans deposited in the office of the Secretary of State, by the commissioners under the act of separation, are delineated the exterior lines of the townships and the rivers ; but it does not appear by the field notes of the surveyors, also there deposited, that any surveys have been made, other than those of the exterior lines of the townships. It does not appear by what survey the courses of the streams are laid down, nor what is their capacity for floating down timber, for giving motion to machinery, nor what the quality of land on their banks. The field notes of the surveyors, the plans above mentioned, and the agreements of the commissioners in the several divisions of public lands with Massachusetts, are almost the only documents which have been by them deposited in the office of the Secretary of State. I would suggest to the Legislature the inquiry, whether the commissioners have complied with the provisions of the act of separation, which requires that "copies of their records authenticated by them shall be deposited from time to time in the archives of the respective States."

Original surveys should never be partial and imperfect, nor be farmed out by the job, to the lowest bidder ; increased care

and expense in the beginning is in the end, the greatest economy. In the public lands, the present generation is entrusted with a fund of great value, and care must be taken that we do not leave to posterity, little else but lawsuits to settle the boundaries of their farms, instead of those accumulated benefits which might be reasonably expected from so rich a patrimony.

The appropriation made by the State, as well as the avails of the township assigned to Maine by the Commonwealth of Massachusetts for the purpose of opening the Canada road, so called, have been nearly expended, and are found inadequate to effect the completion of the same.

The appropriation made for opening the road from township number two to Mattanawcook, has been expended, and is found to fall short of furnishing the means of completing said road.

The road from Baring to Houlton Plantation is not completed agreeably to the contract made with Wm. Vance, Esq. by the Governor and Council in February 1828; copies of all the papers relating to this contract are herewith transmitted for the consideration of the Legislature. These roads when opened and completed, will be found to have been made at great cost, but with a reasonable expectation, that the advantages to be derived from them, will amply repay the expense; and to secure these advantages, it appears necessary, that provision should be made for keeping them in repair while the public lands, through which they pass, remain unsold.

The Maps and Statistical views of the State, subscribed for by the Secretary of State, pursuant to the resolve of February 1828, are received, and as a sufficient number remain to be disposed of at the pleasure of the Legislature, I would recommend, that provision be made for furnishing one to each of the United States. This appropriation is due to the States from which we have received similar presents, and is the most eligible mode of obtaining others as they may hereafter be published.

The existing state of the very important question relating to our northeastern boundary, furnishes an urgent motive for placing in the archives of every State in the Union, a correct map of the territory of this State, as designated by the treaty of 1783.

Since the last session of the Legislature, copies of the commissions of the several Governors of the provinces of Quebec,

Nova Scotia and New Brunswick from the year 1763 to 1786 inclusive, have been deposited in the Secretary's office by the Minister Plenipotentiary and Envoy Extraordinary for the United States to the Court of the Netherlands, with a copy of "a map of the territory contained between the lines respectively contended for by the United States and Great Britain, as being the northeastern boundary of the United States, in conformity to the treaty of peace of 1783." The copies of the commissions were obtained by the general government in 1828, and are the first copies *in extenso* of these documents which have ever existed in the United States. In the description of the boundaries of the Provinces adjoining this State, the same lines now claimed by us as the limits of our territory, are particularly laid down in these commissions, and none other.

It is due to that confidence which the State has heretofore justly reposed in the ability and fidelity of the General Government, to believe, that the subject of our northeastern boundary has received the attention which its acknowledged importance demands. We cannot rationally suppose that a claim so unjust and sophistical in its character, as that raised by the British Government, to hold nearly a third part of the territory of Maine, as described by the treaty of 1783, can be supported, when the merits are fully understood, by any intelligent and impartial tribunal. That confidence in our General Government, to which I have just alluded, should inspire us with the belief, that the question contemplated by the fifth article of the treaty of Ghent, has been submitted to the decision of such a tribunal as I have referred to, in the high personage agreed upon in the convention for submission. And should jurisdiction be urged upon a question different from that submitted, the high character of the umpire would not permit him to assume, what the parties do not agree to submit. The result of the submission may not be definitely known before the expiration of many years. In the mean time, it behoves this government to take care, that no waste is committed of the valuable timber on the territory in dispute, and that aggressions be not attempted on our citizens with impunity.

The account for the amount paid Charles S. Davis, Esq. the "agent appointed by the Executive of this State," in 1827, to inquire into and report upon certain facts relating to aggress-

sions upon the rights of the State of Maine and of individual citizens thereof, by inhabitants of the Province of New-Brunswick," was, at the request of my predecessor presented by the Hon. W. P. Preble to the Executive of the United States for allowance, and an answer received from the Secretary of State, dated the thirty first of April last," stating that he had been directed by the President to say, that there cannot be a doubt that the expense was properly incurred and ought to be defrayed by the government of the United States. But inasmuch as the contingent fund applicable to these expenses, for that year was very limited, it would not be practicable to pay this account, which is properly chargeable against the expenses of a former year." We may therefore expect the payment as soon as the present Congress shall make the necessary appropriation.

Early in the last year the agent of the Penobscot Indians, was directed by the Governor and Council, to procure some man to assist and instruct the tribe in agriculture, agreeably with their request and the condition of the treaty which has been made with them, instead of hiring persons by the day, to furnish their ploughing and other ox labor. A man has been employed to render such assistance and instruction as the treaty seemed to require. Although one year is not sufficient to test the utility of this method of managing the agricultural concerns of the tribe, yet nothing has appeared to discourage the undertaking.

Under the authority of the Resolve of the 7th of February last, a gentleman was appointed to negotiate with the Indians for two townships of land at the mouth of the Mattawamkeag river.— The negotiation has proved unsuccessful, and the report of the agent is communicated herewith.

Although a State has no direct means of enforcing its claims for relief or indemnity on subjects within the control of the General Government, except through its Representatives and Senators on the floor of Congress, yet there are various other means of presenting and urging the decision of claims which are not without their effect, and may be considered within the sphere of the duties of the Legislature. The claim of Massachusetts on the United States for indemnity on account of expenses incurred in the employment of her Militia, and in which Maine has an interest, it is feared may become dormant, unless its merits and

importance are kept constantly alive in the public Councils of these States, to which payment has been so long delayed. This claim is admitted to be just for a larger amount, upon the principles of indemnity adopted on the settlement and allowance of similar claims, from other States. That policy which may have been disposed to punish a State for the errors of its agents, must be amply satisfied by the renunciation of the doctrines to which such policy may have been applied ; and the lapse of time for which the innocent have been delayed of justice, might atone for the errors of those who were more inclined to defend their country in their own way, than utterly to neglect that duty. Whatever may have been the common sentiment in relation to such a course, if I mistake not, the voice of the nation has pronounced it patriotic. And it only remains for Congress to distribute justice with an equal hand. It cannot be too much to say, that the neglect or refusal, on the part of the General Government, to bring this claim to a decision, ought to be viewed as less magnanimous than a denial to allow it.

Pursuant to the Resolve of the 16th of February 1828, "relative to fines, forfeitures, and bills of costs," the person appointed to examine the books and accounts therein designated, made a report to the Governor and Council in October last, of the fines, forfeitures and bills of costs which remain unpaid for the use of the State. As the Resolve does not authorize the Governor and Council to take measures to collect the sums which became due, prior to the first day of July, 1828, the Secretary of State was directed to furnish the Clerks of the Courts in the several counties with a copy of that report, and to prepare a list of the sums remaining unpaid on the first day of January last, and copies of such explanations as he should receive in relation thereto, for the present Legislature ; which lists and copies are herewith transmitted ; as also copies of the proceedings of the Governor and Council of the last year, in relation to accounts in the office of the Secretary of State, of warrants drawn upon the Treasury in favor of persons who are accountable for the expenditure of the same, with a statement of such accounts existing prior to the first of January 1828, which have not since that time been settled.

The method of keeping accounts for fines, forfeitures and bills of costs, prescribed in and by the Resolve of the 16th of February 1828, will obviously create in the office of the Secretary of State very numerous accounts, with Sheriffs, their Deputies and Coroners in every part of the State.—An alteration of the system, so far as to make one officer in each county chargeable with the collection and payment of these sums, is recommended.

There are several appropriations made by former Legislatures for specific objects which have been applied, only in part, and are not now needed for the purposes for which the appropriations were made ; yet the balances appear on the books as a charge upon the treasury. A schedule of the accounts is transmitted herewith, and it is submitted to the consideration of the Legislature, whether these unexpended balances may not be transferred to some other appropriation, and the old accounts balanced.

A communication has been received from the Governor of Louisiana, enclosing a resolution of the general assembly of that State, passed the 4th of February last, proposing “ that the constitution of the United States, be so amended, that the President and Vice-President shall hold their offices for the term of six years, and that the President shall be ineligible afterwards.” The Governor of the State of Georgia has transmitted sundry resolutions of the general assembly of that State concurring with the proposal of the State of Missouri, “ to give to the people of the United States the privilege of voting directly for the President and Vice-President, without the intervention of electors,” and recommending that “ the election of President and Vice-President should in no case whatever be submitted to the decision of the House of Representatives of the United States.” A letter from the Governor of the State of Mississippi, has been received enclosing a resolution of the general assembly of that State, passed the fifth of February last ; likewise one from the Governor of the Commonwealth of Pennsylvania, enclosing resolutions of the general assembly of that State, passed on the “ 28th of January 1830,” in relation to the “ Tariff of 1828;” and in addition thereto, one from the Governor of the State of Vermont, enclosing resolutions of the general assembly of that State, passed the 29th of October last, in relation to “ a uniform

mode of choosing electors of President and Vice-President throughout the United States," as well as in relation to the "Tariff," which are submitted to the consideration of the Legislature, agreeably to the requests therein contained.

You Gentlemen, coming as you do from the different portions of the State, and from among the concerns of its various interests, will bring with you that information which is necessary to determine on the beneficial or injurious operation of our general laws; and if any apparent defects exist, by an interchange of sentiments and due deliberation, you will be able to decide, whether such defects arise from any intrinsic fault, or deficiency in our general code or in the details of our statutes; or whether they arise from other and incidental causes, which cannot be reached by Legislative aid. Apparent defects in the operation of our laws are frequently to be traced to causes independent of the laws themselves; and sometimes to a want of due attention to the whole body of the law bearing upon the same subject. It is believed that great caution ought to be exercised in all partial and desultory legislation. As it is peculiarly your duty, who hold the purse-strings of the people, to keep a watchful eye to all expenditures of the public money, so you will never fail to guard them against oppression and extortion in the demand of exorbitant or unlawful fees, by any officer or agent of the Government, or by any oppressive practices connected with any of its departments.

I cannot permit myself to forego the remark, that as about half of the length of time usually required to complete a session of the legislature, has already expired, without completing the organization of all the departments of the Government; you are assured, that no effort shall be wanting on my part, which may be necessary to expedite, and bring to a close such business as shall come before us, and the occasion may require.

It is with no ordinary degree of solicitude, that I enter on the new and untried scene before me. The high responsibilities of the station assigned me by the people of this State, cannot fail to awaken in my mind a deep sense of my obligations. And while I claim that indulgence which may be due to my inexperience, I am consoled under the sublime reflection, that even the most humble and inexperienced in official station, are permitted

through divine mercy, to look to HIM to enlighten their path and direct their footsteps, "*whose counsel standeth forever, and the thoughts of his heart to all generations.*"

JONATHAN G. HUNTON.

COUNCIL CHAMBER, }
February 10th, 1830. }