

# MAINE STATE LEGISLATURE

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# RESOLVES

OF THE

ELEVENTH LEGISLATURE

OF THE

# STATE OF MAINE,

PASSED BY THE SESSION

*Which commenced on the fifth day of January, and ended on the second day of April, one thousand eight hundred and thirty-one.*

—◆—  
PUBLISHED AGREEABLY TO THE RESOLVE OF 28TH JUNE, 1830.  
—◆—

Portland.

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1831.

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

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

IN meeting together for the first time on this occasion, it would be ungrateful as well as unusual, to forbear to acknowledge the innumerable privileges and blessings, conferred upon us as a people by the beneficence of a kind and bountiful Providence. During the past year, the seasons have been unusually productive, health and peace have continued to prevail throughout the land, and the labors and industry of every class of our fellow citizens have in general received an abundant reward. While other nations of the world have been suffering under the oppression of arbitrary power, the barbarous relic of former ages, or struggling with an inspiring energy for the unalienable rights of freedom and self-government, we have continued in the undisturbed possession and enjoyment of all those civil and religious privileges, which were bequeathed to us by the valor and exertions of our fathers, without any event's having occurred to diminish our confidence that they will be transmitted unimpaired to future generations. In view of these distinguishing realities, it may well be doubted, if we ever have had more abundant cause, than at present, to be satisfied with our condition as a people, and for heartfelt thankfulness towards that Being, who regulates the seasons, and controls the destinies of men and nations.

Agreeably to the provisions of the constitution, we have

been designated by the suffrages of our fellow citizens as their agents, and are now assembled to perform the sacred duties devolved upon us by that constitution, and the nature of the trusts we have accepted, to deliberate and consult together for the public weal, to guard the civil and religious liberties of the citizens, and generally by good and wholesome laws to provide for the welfare and lasting prosperity of the State. Although many of us have been delegated by comparatively small portions of the people, yet, when assembled here, we are to consider ourselves as agents of the whole State, and to consult the particular interests of our local constituents only so far as may be consistent with the duty which we owe to the community; and in all our deliberations, it behooves us, while sacredly adhering to the constitution as our guide, to divest ourselves of sectional and partial prejudices, and to act together in harmony and patriotism, with the single view to promote the public good.

From the complicated concerns of our national affairs generally, we are relieved, by a judicious reference of them, under the federal constitution, to the President and Congress of the United States. But as citizens of this extended republic, we are all immediately and deeply interested in the measures and policy which they may adopt and pursue. And at the present time, in an especial manner, our attention is necessarily directed towards them by the consideration that some of our most important interests and claims as a separate State, are directly dependent upon, or under the control of, the general government. For the faithful and prudent management of these concerns, we must rely upon those public agents to whom the nation has confided the important trust. It becomes, therefore, highly interesting to this people, that nothing should occur to interrupt the harmony and good understanding, which have heretofore existed between the national and State authorities. The relative and corresponding rights and obligations of each are prescribed and defined in the federal constitution, or are necessarily inferred from the nature and intent of that original compact. While the general government shall keep within the strict limits of their constitutional

power, shall preserve inviolate the rights and sovereignty of the States, and impartially consult and promote the general welfare of the nation, this State, as a constituent member of the American confederation, is bound by constitutional duty, as well as by interest, to contribute, according to its means, to sustain the respectability, and support the legitimate authority of that government. So, on the other hand, the United States are under obligations to regard and enforce our just claims, to guarantee our republican institutions, and to protect our territory from the encroachments of foreign invasion.

In pursuance of these obligations, as I apprehend them, an inquiry has recently been instituted, under the authority of the general government, into the boundary between this State and the British Province of New Brunswick. In adopting this measure, it is not contended by the United States, that they have the power to alienate, by negotiation or otherwise, from the jurisdiction of a sovereign State of the Union, any portion of its territorial limits. And though this State has never assented to a compromise of her rights by arbitration, yet it is hoped that no occasion will arise for future discussion in relation to this subject, as it cannot be otherwise than expected, that the result will be in conformity to the stipulations of treaties, and the incontrovertible justice of our claim.

I regret that it is not in my power to give more definite information of the progress which has been made towards a final adjustment of this controversy between the two nations. The delay has probably been occasioned by the late disturbances in the dominions of the King of the Netherlands, the power to whom this subject was referred for arbitrament, agreeably to the provisions of the Treaty of Ghent. In selecting this umpire to decide between the conflicting claims of independent nations, it cannot be doubted that regard was had to the efficient character as well as to the personal honor and private worth of the individual. But recent events having deprived that monarch of the greatest portion of his kingdom by a revolution, thus rendering him necessarily dependent upon foreign power for succor and support, his political situation has been

so essentially changed, that it may be doubtful at least, whether he will give a decision on this delicate and important question, which was referred to him under circumstances so essentially different from those which at present exist. If the effect of this revolution should be to unite in still closer bonds of amity the former friendly and intimate relations of the king of the Netherlands with Great Britain, which seems to be probable, it must be considered that the agreement to refer would, in that event, be rendered of no avail. Whatever confidence may be put in the justice of our cause, however clearly our right may be shown in argument, we certainly could not be willing to submit it to the umpirage of a sovereign, who is not only the ally, but who, by the force of circumstances, may have become, in some measure, the dependent ally of Great Britain. These events have naturally and justly given rise to the anxiety which is felt on this subject. We have every reason, however, to have confidence in the good wishes and exertions of the President towards a satisfactory settlement of this important question. And his appointment of a minister from among the citizens of this State, well acquainted with the merits of the case, to present our arguments to the umpire for decision, has increased our assurance of the desire of the federal government to consult our wishes and give satisfaction to the people of this State. I am not aware that any thing at present remains to be done by the legislature, that can facilitate this inquiry, or affect the result.

It affords me pleasure to be enabled to state, that the claim of this State in common with Massachusetts on the national government, for services rendered by the militia during the last war with Great Britain, is in a train to be finally adjusted and settled. At the last session of Congress an act was passed, authorizing the payment of a considerable portion of this claim, estimated to amount to more than four hundred and thirty thousand dollars, one third part of which, according to the act of separation, after it shall have been paid to Massachusetts, is to be received by Maine. The interest upon this amount may be a subject of discussion, but it is confidently

believed that it will be allowed in conformity to the principles which have governed in the settlement of similar claims from other States. It may be necessary that measures should be adopted to procure the receipt of this money into the treasury of the State, the payment of which seems still to be subjected to great delays, and also to provide a mode for its most secure and profitable investment when received. The whole amount, after deducting the public debt of the State, has already been appropriated by the act providing for the promotion of education, as a fund, to be reserved for the support of primary schools.

The course, which has been pursued by the general government in the appropriations for the purposes of internal improvement, has heretofore received the attention of a previous Legislature, and from the direct bearing, which it has upon the equal rights, interests, and sovereignty of the individual States, has become a subject of too great importance to be now regarded with indifference, or suffered to pass by without being presented to the consideration of the Legislature and people of this State. If it should continue to be the policy of the United States to raise an annual revenue from duties on imports and from other sources, more than sufficient for the gradual extinction of the public debt, and the ordinary expenses of the government, the surplus fund will remain in the national Treasury, without any benefit's resulting therefrom to the people, or some constitutional mode must be devised for its appropriation and expenditure. Perhaps no plan could be suggested less objectionable, or more conducive to the interests of this State, and of the Union, than the one which proposes the apportionment of this fund among the several States according to their ratio of representation, to be by them expended for internal improvements, and the promotion of education. The extent of our public lands, the settlement and value of which might be greatly promoted by roads and canals; our numerous rivers, many of which by a comparatively small expense, might be rendered navigable with boats nearly or quite to their sources; our schools and seminaries

of learning, whose prosperity and usefulness might be much advanced by additional encouragement; all conclusively demonstrate the immense benefits that would arise to this State from liberal appropriations for the promotion of education, and works of public utility. The mode adopted by the general government in the appropriations heretofore made for works of this kind, exclusive of the doubts existing as to the constitutional power, has been attended with difficulties, and is liable to many objections. More than five millions of dollars have been already appropriated by Congress for this purpose, and other works, the costs of which are estimated at nearly a hundred millions more, have been proposed or contemplated. It cannot be denied, that these works in general are more for the interests of particular sections of country, than for the general benefit of the nation. And it is difficult to perceive the justice of this system of partial appropriation, which in effect takes from the common fund, the property belonging to the people of one part of the Union, and, without their consent, bestows it upon another. By an equitable apportionment of the fund among the several States, these objections would be obviated; and it is believed that much would also be gained by entrusting the States with the expenditure of the appropriations. For the general government cannot be presumed to possess the means, in many cases, of correctly determining the relative utility of a public work, or of conducting its execution with the greatest economy and to the general satisfaction of the people, in an equal degree with the Legislature of the State, within whose territory such improvements are contemplated. Besides, the present mode of making the appropriations by Congress, without an established and uniform system, opens the door for the practice of local partialities, and dangerous combinations among the representatives from different sections of the Union, and will unless experience deceives us, become a fruitful source of collision and jealousy between the several States, which the prudent and patriotic should dread, and earnestly seek to avoid, as they would every evil, that may threaten, in any degree, to inter-



rupt the harmony or endanger the cordial union of our confederated republics.

These views I confidently believe to be in accordance with the sentiments of a large majority of the people of this State, and a previous Legislature, with great unanimity, gave them their sanction by the unequivocal expression of their opinion. It is gratifying also to know, that the subject has lately received from the Executive of the United States, that consideration which its importance demands, and from which we are authorized to conclude, that a speedy check will be put to the further extension of this questionable policy, either by the power of Congress, or by the exercise of the high responsibility confided by the constitution in a co-ordinate department of the federal government.

The correct and prudent management of our public lands is an object of the first importance, and from the circumstances connected with them, is attended with difficulties and embarrassments. A large portion of the most valuable lands have been sold in townships to individuals, and in many cases at a comparatively low price. It is probable that their value would have been increased by delaying the sale for a few years, provided the timber could have been preserved from depredations. But the proceeds of the sales of these lands are of small consequence in comparison to the benefits which the State would derive from their actual settlement. All our measures in relation to them should, therefore, be principally directed to the promotion of this object. And if by giving them away to actual settlers, the wilderness could, in a few years, be converted into flourishing villages, inhabited by an industrious and virtuous population, the interest and prosperity of the State would thereby be more effectually promoted, than by any sales, however advantageous in other respects, without attaining this more desirable and important object. It is true, that purchasers of large tracts of land have many inducements to sell the same to actual settlers, especially after the most valuable timber upon them shall have been disposed of. But from the large quantities that have recently

been sold by the State, the market is at present supplied; and the expediency of checking the sale of large tracts of land to individual proprietors, and affording additional encouragement to actual settlers, is respectfully submitted to your consideration.

The unsettled state of the North Eastern boundary, and also the tenure, by which these lands are held by this State in common with Massachusetts, cannot fail of proving disadvantageous and perplexing to the interests of both States. The improvement of the lands by making roads, clearing the obstructions in the rivers, and by other means, thus enhancing their value and promoting their settlement, is impeded by the necessity of requiring the co-operation of another State, which inconvenience is but partially remedied by the divisions into townships, as heretofore practised, to be held by the two States in severalty. In some respects it would be more beneficial to both States that partition should be made of all the undivided lands into two entire parts, each of which would then be more exclusively under the control of the State to which it belonged. Still, I am persuaded, that in any plan that could be devised, difficulties and objections might reasonably be apprehended, which a prudent foresight would require, if possible, to be guarded against and avoided. That Massachusetts should continue to possess within the limits of this State so great a portion of the territory, which is thus placed beyond our control, and over which our jurisdiction can be but partially extended, is an anomaly, which the public feeling, the interest, and future prosperity of this rising State imperiously require to be removed, if an arrangement for this purpose can be effected on any just and reasonable terms. Such an arrangement would, it is believed, insure a continuance of the harmony now existing, and contribute essentially to promote the mutual interests of both States. In addition to these considerations, the magnanimity of our parent Commonwealth, so signally manifested in her assent to our separation, in compliance with the wishes of that portion of her people, now constituting this State, affords a strong assurance, that a negotiation instituted for the purchase of

her lands for a just and adequate equivalent, would not prove in the result to have been fruitless and unavailing.

When the North Eastern boundary shall have been definitively settled, a favorable opportunity will be presented for attempting to effect this purchase, if it should be deemed expedient, as a portion of the militia claim, when received, would constitute a fund for the payment, without the necessity of having recourse to any additional taxation upon the people; and the lands and their proceeds might be reserved as a fund for the promotion of education, as contemplated by the act of 1828.

As it is certain that the great capital of our State is land, which must be rendered productive by the skill and industry of the farmer, and as a great portion of our citizens are necessarily devoted to the cultivation of the soil, it is important that encouragement should be afforded to this the most ancient and useful of all employments. I believe it would be beneficial to the State, that agricultural associations and experiments, for the purpose of determining what articles can be cultivated to the most advantage in our soil and climate, what modes of culture and kinds of manure are most suitable, and also for improving the breeds and qualities of the different kinds of animals raised on farms, should be promoted by the aid of the Legislature.

The public roads, which have been undertaken by the authority of the State, are progressing, and, in some instances, have been completed. The reports of the agents of the Metanawcook road, and of the Baring road, will be laid before you, and will require your consideration.

The Canada road, according to the report of the agent appointed to examine and inspect it, appears to have been completed during the past year, and is now believed to be safe and convenient for travellers. An easy communication, thus opened between this State and our friendly neighbors, cannot fail to be mutually beneficial. It will afford an opportunity for the increase of our trade, by the interchange of commodities, will promote the sale and settlement of the State's land

in the vicinity of the route, and contribute to a continuance of the very friendly understanding now happily subsisting. The greatest inconvenience that exists in passing this road, is the want of suitable houses of entertainment, established at proper distances, throughout the route. In order, with as little delay as possible, to remedy this deficiency, I would respectfully suggest the appropriation of a lot of land, at the most eligible situation, for the use of the person, who, within a limited time, shall erect thereon suitable buildings to be occupied, for a stipulated number of years, as a public house for the accommodation of travellers.

Before closing this subject, it becomes my duty to state, that information has been received from a respectable source, that a part of the road, lately completed, passes over the Bald Mountain, in a direction different from that prescribed by the resolve of the State. The Executive department of the last year declined paying the balance of the appropriation claimed by the contractors, in order that the subject might be referred to the consideration of the Legislature.

In the erection of the State House at Augusta much progress has been made. The exterior walls and colonade are completed. The finishing of the interior is the principal work that remains to be done, and will require an additional appropriation to be made by the Legislature. This building, constructed of the most beautiful and durable materials, on a plan combining architectural symmetry and elegance with utility, I have reason to expect may be put in readiness to accommodate the Legislature by the time contemplated by law for the removal of the government to that future capitol of the State.

The State's Prison at Thomaston has received a large share of the careful attention of the government, and under its general superintendence seems to be attaining a salutary condition for the economical punishment of convicts, and the gradual reform of its unhappy, because vicious occupants. That this penitentiary is capable of being improved, and its affairs conducted with more skill and economy than heretofore,

is possible and perhaps probable. But when we consider that it is a recent institution, that the agents entrusted with its control have had but little opportunity of becoming practically acquainted with the best and most economical mode of managing its concerns, and regulating its manufactures, the results are as favorable, upon the whole, as could have been reasonably anticipated. The provision for the establishment of a Sunday School, and for literary and religious instruction within the prison, will, it is believed, be attended with salutary effects in conducing to a reformation in the character of the convicts, a subject of the first importance to be considered in every system of prison discipline. Further to promote this benevolent object, it is recommended that the prisoners should be kept separate from each other, so far as possible, especially during the night; lest by communicating together, the old and most hardened offenders should become active instructors in crime, and the prison, instead of being a place for reform, should be converted into a seminary for the teaching of every kind of vice. For further information in detail, as to the concerns of this prison, I refer to the reports of the Inspectors and Warden, which will be laid before you.

Our literary institutions are in a prosperous state, and under the fostering care of the government, spreading the influence of mental light and good morals among the people. For the correct management and progressive improvement of these institutions we cannot feel too anxious, since on education depends so much of our happiness, and the security of our free governments.

The Colleges at Brunswick and Waterville have heretofore partaken largely of the public munificence. Their usefulness and prosperity have been promoted and sustained by the annual donations which have been granted to them, agreeably to that provision of the constitution, which imperatively makes it the duty of the Legislature to encourage and suitably to endow, from time to time, as the circumstances of the people may authorize, all academies, colleges and seminaries of learning within the State. That this public bounty has

not been injudiciously bestowed, or misapplied, is to be inferred from the flourishing condition of these colleges, the ability and diligence of their several professors, and the increasing number of their students, a great proportion of whom are enabled to obtain their instruction gratuitously by the aid afforded them from the grant of the State. The time limited in the acts providing for these annual donations will expire during the present year. And the land of these institutions being at present unproductive, they must necessarily rely, for some years to come, upon the aid of the government, or their usefulness and prosperity will be much impaired, if not totally destroyed. I am sensible that the importance of continuing to cherish our seminaries of learning, those institutions devoted to the ennobling pursuits of literature and science, founded and endowed exclusively for the purpose of disseminating the inestimable benefits of a good education and correct principles among the rising generation, can receive no additional weight from any arguments or remarks in my power to make. I respectfully recommend the whole subject to your consideration, with confidence that it will receive such direction, as shall render these institutions responsible to the Legislature and the people for the faithful employment of the bounties of the government, and shall best comport with the honor and lasting interests of the State.

During the present year, the charters of all the Banks incorporated by the State, with one or two exceptions, by the terms of their limitations, will have expired. An opportunity is thus presented for an inquiry into the manner in which they respectively have been conducted, how far the public interest and accommodation have been promoted by their operations, and if it should be considered expedient to renew their charters, to enact such terms and provisions, as shall tend to establish a sound currency, and protect, so far as may be practicable, the individual interests of the stockholders, while the most perfect security is afforded to the public for the correct and faithful management of these institutions.

As it is important that provision should be made for the

safe and profitable investment of the amount expected to be received on account of the militia claim, it has been suggested that our banking system should be arranged in reference to the attainment of this object. For this purpose, two different plans have been contemplated. One is the establishment of a State Bank with branches, the stock to be held jointly by the State and by individuals, similar to the Bank of the United States. But to the adoption of this measure numerous, and to my mind unanswerable objections are presented, which it may not be necessary at this time to enumerate. Another less objectionable plan, which I respectfully recommend to your consideration, proposes that provision should be made in the charters of the banks hereafter to be incorporated, or renewed, authorizing the State, at any time when the public interest should render it expedient, to take a limited amount in addition to the capital stock of any such bank, with power to appoint one or more directors, in proportion to the amount of stock thus taken.

The report of the Commissioners appointed to examine into the transactions and to ascertain the condition of the several banks in the State will be laid before you, by which it appears that they are all in a sound condition, well entitled to public confidence, and have substantially conformed to the law, and the rules and regulations prescribed in their respective charters of incorporation.

At the present session of the Legislature, the period has arrived in which it is required by the Constitution that a new valuation of the taxable property in the State shall be taken, the number of the inhabitants ascertained, and a new apportionment of Senators and Representatives established.

With regret I have observed of late a disposition to disparage the militia, and discourage individual exertions to promote its discipline and efficiency. The privilege of bearing arms is among the most important of the rights guaranteed to the citizen by the provisions of the federal constitution. This privilege would be useless to the people for protection or self-defence, without an efficient system of combined operation. In a country like ours, whose free and republican forms of

government are necessarily opposed to large and permanent military establishments, the local militia affords, in the first instance, our only defence in time of war, and at all times constitutes the only armed power, which the State government can command to protect the civil authority, and enforce a due obedience to the laws. Prudence and patriotism would also require us to anticipate and guard against the evils, which have ever proved the ruin of other republics. If it should be the fortune of this nation to be again involved in war, which history and experience shew to be at least probable, victorious armies and successful generals might arise, whose power and ambition would require stronger restraints, than written laws and constitutions could afford. In such an event, nothing but a people armed, and so organized and trained as to feel a confidence in their own strength, could keep in awe unprincipled ambition; and constitute, as it were, a national guard to protect and preserve the liberties of their country.

From a full conviction, therefore, of the importance of cherishing our militia, I cannot too strongly recommend the adoption of, or continued adherence to that system of discipline and organization, which may be considered best calculated to render the establishment respectable and efficient.

The standing laws now in force in the State, require at present, it is believed, little or no alteration. In their operation they continue in general to produce their designed effects, and are in accordance with the public sentiment, and the wants of the community. It would be unsafe, therefore, without urgent reasons, and merely from the often delusive hope of improving our condition by an untried experiment, to attempt any sudden and material alteration in the leading principles of those laws and usages, which were transmitted to us by our fathers, under which they prospered and were happy, and which now, being well known and understood, constitute the main pillars in the structure of our civil liberties.

The law on one subject, however, may form an exception to the general code, and from the interest recently manifested



in relation to it, as well as from its intrinsic importance, may be deserving of your consideration. I allude to imprisonment for debts arising on civil contracts. I am aware that the practice is supported by the sanction of antiquity, and that a radical change in favor of the personal liberty of the debtor may be viewed by some as an innovation upon established usage, which the occasion and the public interest seem not to warrant or require. But the laws upon this subject have already, by frequent revisions, been greatly moderated from their former rigor, and do now, in most cases, authorize merely a nominal imprisonment, which may occasion considerable expense and vexation to the debtor, without affording any additional security or benefit to the creditor. And the increasing progress of the liberal sentiments of the age seems clearly to indicate, that the period in this country is rapidly approaching, when *honest* poverty and misfortune shall no longer be subjected to the punishment, which is due only to fraud and to crime. The effect of the indiscriminate imprisonment of the honest and the dishonest, the debtor and the felon, is in many respects injurious to the morals and welfare of the community. It disheartens and paralyzes the debtor, renders him less able to pay his debts, to support himself or family; and deprives society of the benefits that might be derived from his industry and talents. Imprisonment, as a punishment, is divested of the odium and disgrace, which should ever attend it, and thus becomes less efficacious in deterring the unprincipled from the commission of fraud upon their creditors, as well as from other offences. In order to remedy these evils, let it be the object of the law, while it enforces it sanctions, to make a distinction between poverty and fraud, misfortune and crime. If the debtor be dishonest, and has secreted or transferred his property, with intent to defraud his creditors, let the law, while it protects the poor and honest from arrest and imprisonment for debts hereafter contracted, provide a remedy, more scrutinizing than the present one, for the detection of the fraud, and a compulsory process against the fraudulent debtor, by which payment of his debts may be more effectually secured and enforced.

In connection with this subject, the assignments of property, so frequently made of late by insolvent debtors for the benefit of their creditors, may be mentioned, as requiring some salutary regulations to be established by law for the equitable distribution of the property assigned among all the creditors, who after notice shall assent to the assignment. By the mutual consent of the debtor and his creditors these assignments may thus be made to operate as a voluntary insolvent law, and promote in most cases the interests of all the parties concerned. Unjust preferences of favored creditors made in these assignments, and fraudulent attachments of property, for pretended debts, should also be guarded against by the law.

These subjects are mentioned, with the view that they might elicit the public attention, and at this, or some less busy session of the Legislature, receive the consideration, to which they may appear to be entitled.

I have now suggested the principal topics, to which I have deemed it proper, at the present time, to invite your attention. Should any thing further occur, of which it may appear interesting that you should be informed, I shall make it the subject of another communication. It only remains for me to assure you of my cordial co-operation in all measures interesting to our State and country, and to express my confident hopes, that harmony and justice, under the influence of that wisdom which is from above, will prevail in all your deliberations, and that after having finished the arduous and accumulated business of the present session, you may return to your homes, animated with the consciousness of having faithfully discharged your duties, and receive as a merited reward, the approbation of your constituents.

SAMUEL E. SMITH.

COUNCIL CHAMBER, }  
Portland, January 8th, 1831. }