

MAINE STATE LEGISLATURE

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RESOLVES

OF THE

TWELFTH LEGISLATURE

OF THE

STATE OF MAINE,

PASSED AT THE SESSION

WHICH COMMENCED ON THE FOURTH DAY OF JANUARY, AND ENDED ON
THE NINTH DAY OF MARCH, ONE THOUSAND EIGHT
HUNDRED AND THIRTY-TWO.

PUBLISHED AGREEABLY TO THE RESOLVE OF JUNE 28, 1820.

AUGUSTA:

I. BERRY & CO., PRINTERS TO THE STATE.

1832.

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

GENTLEMEN OF THE SENATE,
AND HOUSE OF REPRESENTATIVES:

By accepting the responsible offices, to which we have the honor to be elected by the suffrages of our fellow citizens, we voluntarily assume obligations, which politically, as well as religiously, we are bound sacredly to regard. These obligations require us attentively to examine into the condition of the State, to see that the laws are in accordance with the wants, and sentiments of the community, and that the public agents, entrusted with their execution, are honest, capable, and attached to the constitution. It is also our duty to search out the abuses that may exist in the administration of public affairs, and, so far as possible, provide a remedy for every known defect; and on all occasions to exert the power and abilities we may possess to promote the welfare and happiness of the people.

While for these purposes, we take a view of the condition of the State, considered individually and relatively as a member of the American confederation, we shall, I believe, find but few laws that require alteration, and not many cases in which the public interest can be promoted by the aid of the Legislature. The increasing prosperity and happiness which continue to attend us as a people, thus rendering the ordinary labors of legislation comparatively light, cannot fail to be the subject of mutual congratulation, and to excite feelings of devout gratitude towards that Almighty Being, to whom we are indebted for the innumerable blessings conferred upon our favored country.

It is also highly satisfactory to learn, from the recent exposition of our national affairs by the Chief Magistrate of the

Union, that the other sections of this extensive republic are likewise rapidly progressing in all those attainments which render a people virtuous, prosperous and happy. Our nation, throughout its vast domains, is continually undergoing improvements; the population is increasing with a rapidity unexampled in the annals of the world, and regularly advancing in the arts and sciences,—in practical knowledge, intelligence and power; our agriculture, commerce and manufactures, mutually aiding and supporting each other, are thriving with increased activity; our relations with foreign powers continue generally in a most favorable state; and, in the course of another year, the United States may exhibit an instance, without example in the history of modern times, of a powerful nation, unencumbered with a public debt.

This happy and prosperous condition of our country is chiefly to be attributed, under the blessings of a kind Providence, to the nature of our republican institutions, and the just and pacific policy uniformly pursued by our National Government; which, without being turned from its course by motives of national ambition and vain glory, makes the welfare and happiness of the people the exclusive object of its consideration. To preserve from infringement the principles of those institutions, and to maintain their purity and efficiency, should, therefore, be the unceasing endeavor of the constituted guardians of the public welfare.

The great object, contemplated in the adoption of the Federal Constitution was, to ensure a more perfect union of the States, whereby the security and welfare of the whole would be most effectually promoted. The result of the experiment has been attended with the most complete success, and proves that it is the dictate of prudence and patriotism to adhere strictly to the provisions of the national compact, and to preserve inviolate the harmony of the Union, as the firmest guaranty of our independence and prosperity. It becomes, therefore, the duty, as well as the interests of the individual States, on all occasions to respect the legitimate authority of the General Government, and to yield a ready compliance with its laws, and acquiescence in its constitutional measures. In the language of WASHINGTON, "these are duties required by the fundamental maxims of true liberty."

But while the legitimate authority of the General Government, as exercised by its legislative, executive, and judicial departments, is thus fully and cheerfully acknowledged,—the individual States, from regard to their own preservation, are bound to protect their limited sovereignty from violation, and have a constitutional right to require of that government a performance of all the obligations intended for the protection and benefit of each separate State of the Union.

The relative rights and obligations, existing between the National and State Governments, have often been the subject of public inquiry among other States; and from its reference to the pending question in relation to our North-eastern Boundary, has now become one of much interest to the people of Maine. By the Federal Constitution, the power of declaring war, making treaties, and the management of all our relations with foreign powers, is confined exclusively to the General Government. They are also under obligation to protect each of the States against invasion. And though Congress has power to dispose of the territory belonging to the United States, it is expressly provided, that nothing in the constitution shall be so construed as to prejudice the claims of any particular State. On the other hand, the individual States are prohibited, without the consent of Congress, to keep troops, or ships of war, in time of peace; to enter into any agreement or compact with a foreign power; or to engage in war, unless actually invaded, or in such imminent danger as will not admit of delay.

When the government of the United States entered into the negotiation with Great Britain, for ascertaining the boundaries between this State and the British provinces, as defined by the treaty of 1783, they considered, it would seem, that the settlement of the question belonged exclusively to the General Government; and the convention of 1827, for submitting the points in difference to the King of the Netherlands, was agreed to, notwithstanding the remonstrance from the Executive of this State. In accordance with these views, the President has often recommended and enjoined upon the government of this State, to abstain from all acts in relation to the disputed territory, that might be calculated to embarrass the pending negotiation, or lead to collision with the British authorities. The United States having thus assumed the exclusive management of the controversy, they are bound, in definitely settling it, to regard

the rights guarantied to Maine; and have no power, by the Federal Constitution, to alienate, by negotiation or otherwise, any portion of the territory of the State, without its consent.

As the grounds of our title to the territory in dispute have so often been under the consideration of previous Legislatures, and of late have so frequently been the subject of able public discussion, it is believed unnecessary on the present occasion, to make a detailed statement of the facts and arguments which conclusively demonstrate that territory to be within the limits of Maine, according to the boundaries of the United States, as defined in the treaty of 1783. The validity of our title has also been admitted by the General Government; and in a letter of Mr. Clay, former Secretary of State, it is declared, "that the Government of the United States is fully convinced that the right of the territory is with us, and not with Great Britain. The convictions of Maine are not stronger, in respect to the validity of our title, than are those which are entertained by the President."

After the true St. Croix river and its sources, intended by the treaty of 1783, were ascertained in pursuance of the provisions of a subsequent treaty, it would be supposed that the other boundaries were so clearly and definitely described, as to preclude the possibility of a doubt respecting "the highlands which divide the rivers that fall into the Atlantic ocean from those that fall into the river St. Lawrence," designated in the treaty, and which are claimed as constituting the northern boundary of this State. They were also rendered absolutely certain by reference to "the north-west angle of Nova Scotia," the point at which the boundaries defined in the treaty commence; which angle, by successive acts and documents of the government of Great Britain, for many years previous, as well as subsequent to the treaty of 1783, is proved to be at the highlands which bound the sources of the rivers that fall into the river St. Lawrence, and divide them from the rivers that fall into the Atlantic ocean; which highlands also constitute a part of the boundaries of the province of Quebec, or Lower Canada. Accordingly it appears, by the report of our Agents, recently appointed to procure information respecting this territory, that after the true St. Croix river and its sources were ascertained in 1798, the British Government ceased to exercise jurisdiction over any part of the territory since disputed; and for nearly twenty years

afterwards, and until the line at Mars Hill was claimed as the boundary, it was not resumed. And it is probable, that no serious difficulty would ever have arisen in settling this boundary with the British Government, if that unfortunate provision had not been made in the treaty of Ghent, which provides for submitting the question to an arbiter.

After that treaty had been ratified by the proper authority, it became, within the limits of the federal constitution, the supreme law of the land, and the United States were bound in good faith to carry it into effect. Commissioners were therefore appointed in pursuance of its provisions, who differing as to some of the points submitted to them, the convention was subsequently made with Great Britain, by which it was agreed, "that the points in difference which have arisen in the settlement of the boundary line between the American and British dominions as described in the fifth article of the treaty of Ghent, shall be referred, as therein provided, to some friendly Sovereign or State, who shall be invited to investigate and make a decision upon such points of difference."

The King of the Netherlands was agreed upon, as the Sovereign to whom such points of difference should be referred. By the reports of the Commissioners, made to their respective Governments, and the statements afterwards agreed to be substituted for them, it appears that the only points of difference, so far as this State is concerned, arose upon the question, which were the highlands described in the treaty of 1783, where the north-west angle of Nova Scotia is to be found. The British claimed as those highlands, the lands which divide the branches of the river St. John from those of the Penobscot, including Mars Hill; and the United States contended that the highlands were northward of the river St. John, bounding the sources of the rivers that fall into the St. Lawrence, and dividing them from the rivers that fall into the Atlantic ocean. These were the points of difference submitted to the arbiter, and which he was invited to investigate and decide. His delegated power extended no further. When, therefore, without pretending to decide either of these points, he undertakes to mark out a new boundary for the United States,—and instead of the highlands described in the treaty, declares his opinion that a portion of the river St. John, and the river St. Francis, are suitable boundaries between the two

governments, he evidently transcends the limits of his authority, and his award cannot justly be considered as binding upon the parties interested. The acceptance or rejection of the award is now pending before the Senate of the United States; and we cannot but confidently expect, that the extraordinary advice and opinion of the arbiter will be considered by the General Government as an unauthorized assumption of power; and that such direction will be given to the subject as will comport with the rights and interest of this State, and with the honor and dignity of the United States.

At the last session of the Legislature, resolutions were adopted, declaring the right of this State to the territory in dispute; and expressing their opinion that the award of the King of the Netherlands was not obligatory, and that its acceptance would be a violation of the constitutional rights of Maine. Copies of these resolutions I transmitted to the President of the United States, by a special agent, who was appointed in pursuance of the resolve for that purpose, and who was also instructed to communicate such other information in regard to the north-eastern boundary as was considered for the interest of the State. Copies of the same resolutions, together with other documents relating to the subject, have been forwarded to the Governors of the several States, and to each of the members of the present Congress.

In compliance with the recommendations of the Executive of the United States, repeatedly and urgently expressed, the Government of Maine has uniformly refrained from the forcible exertion of jurisdiction over those portions of the disputed territory, where it would necessarily lead to collision with the British authorities; and have continued with confidence to rely on the General Government for the enforcement of our rights, and the protection of the territory, which we not only claim, but know, to be within the limits of Maine.

I am aware that the opinion is generally, and perhaps justly entertained, that if a different course had been adopted by Maine before the negotiations respecting the boundary had commenced, this unfortunate question, by which the integrity of our territory is endangered, would never have arisen. But in the present state of the controversy, much difficulty and embarrassment would be the consequence of disregarding the earnest recommendation of the National Executive, and adopting

measures to enforce our jurisdiction over the small settlement at Madawaska. Measures for that purpose, to be effectual, would require a detachment of the militia to be stationed at that place; in which event we should not only be in collision with Great Britain, but acting in opposition to the expressed wishes of the Government of the United States. It is difficult to perceive how such a state of things could have a favorable effect upon the result of the controversy, or contribute in any manner to the honor or advantage of the State. Under existing circumstances, therefore, and while the question is pending before Congress, it is believed to be necessary, as well as expedient, that we should rely upon the government of the Union for the enforcement of our rights; and when we appeal to that government to protect our territory against invasion, we ask not a favor, which may be granted or withheld—but claim a right which the constitution authorizes the state to demand.

At the last session of the Legislature an act was passed to incorporate the town of Madawaska, including territory southward of the river St. John, and the disputed territory northward of that river. By another law, the inhabitants were empowered to elect a representative. As the apportionment of representatives is required by the constitution to be made at stated periods of at most ten, and at least five years distant from each other, and as it was confidently believed that this territory must eventually come under the exclusive jurisdiction of Maine, there was an obvious necessity of providing for the future representation of that part of the State. It was also generally considered that these acts were intended as a continued assertion of the right of the state to jurisdiction over the territory known to be within the limits of Maine; though there was no necessity that they should be forcibly carried into effect, until with the concurrence of the General Government, circumstances should render it proper and expedient. Besides, if a forcible exertion of the authority of the state at Madawaska had been the intention of the Legislature, appropriations would necessarily have been made, for defraying the great expenditures of embodying and sustaining the militia requisite for effecting the intended object.

In the month of October last, information was received, that a number of the inhabitants of Madawaska had organized themselves into a corporation, chosen municipal officers, and subsequently a representative; and that in consequence of these acts,

the lieutenant governor and other authorities of New Brunswick, accompanied with a military force, had proceeded to Madawaska, and arrested a number of American citizens, who were carried to Fredericton, and there imprisoned.

Though the measures adopted by the inhabitants, voluntarily organizing themselves into a corporation at that place, then claimed to be under the actual jurisdiction of the province of New Brunswick, were unexpected by me, and undertaken without my knowledge; yet, as they acted in territory known to be within the limits of Maine, and in obedience to the laws and constitution, I considered that they were entitled to the aid and protection of their government.

Immediately, therefore, on receiving evidence of these transactions, they were communicated, together with all the circumstances in relation to them within my knowledge, to the Department of State of the United States, with a request that the proper measures might be adopted by the General Government to procure the release of our citizens, and to protect the territory of our State from invasion. Upon the receipt of this communication,—though the proceedings of the inhabitants of Madawaska were considered to be a breach of the arrangement made with the British Minister, for preserving the state of things as it then existed on both sides, till a final disposition of the question,—those measures were promptly adopted by the President, which resulted in the release of our citizens from imprisonment, and rendered further proceedings on the part of this State, in reference to that object, unnecessary.

I was also advised, that the President had received, from the representative of the British Government, the strongest assurances that no innovation would be countenanced, on the part of its provincial functionaries; and that on the part of the United States, good faith, as well as the protection of the frontier from unauthorized mutual inroads, required the same course of conduct. Copies of the documents and correspondence, in relation to the transactions at Madawaska, will be laid before you.

The necessity of exerting, at this time, all suitable means within our power, to prevent the dismemberment of our territory, and to preserve inviolate the constitutional rights of the State, must be obvious to all. I would therefore respectfully recommend to your consideration the expediency of adopting

further measures, in addition to those already taken, for the purpose of making known our rights, and communicating your sentiments in relation to this subject to the Government of the United States. Seasonable measures for this purpose might have a beneficial effect upon the decision of the question and afford a more full knowledge of our views to our Senators and Representatives in Congress, whose utmost exertions, we have every reason to believe, will also be ably devoted to the defence of the rights and interests of the State.

The position of Maine as a frontier of the United States, with her extensive borders immediately exposed in times of national collisions, to aggression both by sea and land, demonstrates the necessity of a well organized and efficient Militia. So frequently has the subject been under the consideration of previous Legislatures that I am confident, without any remarks of mine, every measure will be adopted for the improvement of an establishment, on which we must rely for the execution of our laws, and the defence of our rights and liberties.

As the public attention has become much directed to this subject in other parts of the United States, and memorials have been presented to Congress, praying for the adoption of an uniform system for the regulation of the Militia, I would suggest to your consideration the expediency of awaiting the action of the General Government in reference to that object, and in the mean time to communicate to Congress the expression of your opinion in favor of the contemplated measure. Since the passage of the law by Congress in 1792, for establishing an uniform Militia, the population of the United States has increased from four millions to more than twelve, and the resources of the Country in other respects have immensely changed. It is not now necessary, as it was then, that so great a proportion of the citizens should be enrolled, and the national revenue will now permit without inconvenience more liberal appropriations for arming and disciplining those who are required to do military duty. Many reasons conspire to render it probable, that Congress will soon give their attention to this subject, and amend a law, which has become so universally unpopular.

Of the subjects at this time particularly deserving your consideration, the agricultural interests of the State are considered by many as among the most important. They are truly so. For

the cultivation of the soil constitutes the employment of a great majority of the people of the State, and is the foundation upon which we must depend for our present as well as future increase and prosperity.

At the last session of the Legislature a bill was reported, providing for the encouragement of Agricultural Societies. This bill having been published for general information, there is reason to believe that the policy and importance of its provisions have been well considered and understood by the people. Associations of this kind have been formed in other countries, and in many of our sister States, and under the patronage and fostering care of the government, have been found productive of the most beneficial results. By thus occasionally meeting together for the purpose of exhibiting specimens of industry and new improvements, and communicating and receiving information in relation to the various branches of agriculture, a spirit of honorable emulation is excited, the employment of the husbandman is raised in public estimation, and new energy and enterprise will be introduced among the yeomanry of our State.

In my last annual communication to the Legislature, reference was made to the importance of continuing to afford aid and encouragement to our literary institutions. Owing to peculiar circumstances which then existed, no appropriations excepting in one instance, were made for that purpose. I respectfully submit the subject again to the consideration of the Legislature, from a full conviction that the permanency of our republican institutions of Government and the welfare and happiness of the people, can in no other way be so effectually promoted as by liberally providing for the instruction of the rising generation. It is also believed, that the Legislature are imperatively required to regard this subject by that article of the Constitution, which provides, "that it shall be their duty to encourage and suitably endow, from time to time, as the circumstances of the people may authorize, all academies, colleges and seminaries of learning within the State."

From information received, I am enabled to state that the concerns of the State Prison at Thomaston are in an improved condition. It is believed that the proceeds of the labor of the convicts for the last year will exceed the expense of supporting them, by more than four hundred dollars; but in this estimate the salaries of the officers, with the exception of those of the

Chaplain and Physician, are not included. No special appropriation will therefore be necessary for the support of the Prison during the present year.

The situation of the Public Lands belonging to the State will require your consideration. For information of the manner in which they have been managed during the past year, I must refer you to the Report of the Land Agent, which, when received, will be laid before you.

There are no means by which their improvement and settlement, the objects most interesting to the State, can be more effectually promoted than by clearing obstructions in the rivers, and making roads through them, and by sales in small quantities to actual settlers.

In pursuance of the Resolve in relation to this subject, a Commissioner has been appointed to meet the Commissioner appointed by Massachusetts in compliance with the request of this State, for the purpose of agreeing upon a system for the sale, disposition, and management of the public lands, owned in common by the two States. From the character of these Commissioners, it is believed that their Report when received, will enable the Legislatures of the two States, to establish a uniform system for the purpose contemplated, that will not fail to promote the mutual interest of both.

The Agents appointed to examine the Canada Road have reported, that the public interest requires the road to be made westward of the Bald Mountain, as provided in the Resolve for completing this road. The contractors having made the road over the mountain and in a different direction, have not complied with their contract, and are not entitled to the balance of the appropriation for making it, unless the Legislature shall otherwise direct. The commonwealth of Massachusetts having granted a township of land to aid in making this road, upon the condition that it should be finished by the first day of November 1830,—it has been considered necessary that the Legislature of that Commonwealth should be requested to extend the time limited for its completion.

I have accordingly, agreeably to the Resolve of the last session, communicated the facts to the Governor of Massachusetts, in order that the subject might be laid before that Legislature. In the mean time the report of the Agents will be communi-

cated to you, in order that such measures may be adopted for the completion of this road as the interests of the state require.

The appropriation of three thousand dollars granted by the last Legislature for repairing and improving the road leading from this State through the Notch of the White Hills, together with the sum of two thousand dollars contributed by individuals, appears by the report of the Agent to have been expended for that purpose, excepting a small balance, which will be laid out in repairing the road, so soon as the ensuing season will permit.

The Agent appointed to complete the Mattanawcook road, found the appropriation insufficient for that purpose, owing to the injuries sustained by the road and bridges, from the freshets of the last spring. He therefore exceeded the appropriation by the sum of two thousand eight hundred and seventy-nine dollars and forty cents, in repairing and making contracts to complete said road, which will be due to him when the same is completed, and which cannot be reimbursed, without the consent of the Legislature. His report, together with the report of the Council upon the subject, will be laid before you.

Under the resolve of the last session, the Land Agent of this State, in conjunction with the Land Agent of Massachusetts, has caused to be laid out a road from the Mattawamkeag, a branch of the Penobscot river, in a northerly direction, to the Aroostook river. Seven miles of this road have been opened, and proposals received for making thirty miles more. As the territory through which this road passes, to the river St. John, must eventually, whether the award be accepted or not, fall under the exclusive jurisdiction of Maine, I would suggest the importance of taking measures in concurrence with the commonwealth of Massachusetts, for the completion of this road. A communication to be thus opened through that extensive and fertile part of the State, could not fail greatly to enhance its value, and promote its rapid settlement.

The resolve of last year, for the benevolent purpose of providing for the instruction of the indigent deaf and dumb at the American Asylum in Hartford, has been carried into effect; and eight persons, in addition to the nine placed there before, have been designated as suitable objects of that charity; all of whom,—excepting one, who declined going,—are receiving the benefits of that laudable Institution.

During your present session, and after Congress shall have established the next general apportionment of representatives, it will be necessary to decide the manner in which Electors of President and Vice President shall be chosen; and also to district the state for the choice of representatives to Congress.

The annual report of the Treasurer will furnish you with a statement of the receipts and expenditures of the State for the past year. During that time, the sum of one hundred thirty-two thousand and two hundred dollars has been received on account of the Massachusetts claim for the services of the militia; the sum of seventy-nine thousand eight hundred and thirty dollars has been redeemed of the debt due from the state; and twenty-eight thousand seven hundred and fifty dollars has been loaned to Banks, or invested in Bank stock, agreeably to the Act for that purpose.

As the State is authorized to appoint a Director in each Bank in which it has taken stock, pursuant to the act of the last session, it is necessary that provision should also be made by law, specifying the manner in which such Directors shall be appointed.

It has been suggested, that much inconvenience and liability to mistake may arise from the practice of submitting accounts against the state to the Legislature, for the purpose of being then audited and settled. It is believed, that a law requiring them in the first instance to be presented to the Treasurer, to be by him examined and allowed, and afterward reported to the Legislature, would facilitate the dispatch of business, and ensure a more careful examination than could be conveniently given to them by a Committee whose time is often necessarily taken up with the more important concerns of the State.

I am not aware of many subjects to which it is necessary at this time particularly to invite your attention. There is reason to believe, therefore, that your present session will be as remarkable for the shortness of its duration, as for the wisdom and patriotism which, under the invoked blessing and guidance of Divine Providence, will, I am confident, continue to prevail in your deliberations, and characterize all your measures.

The noble building in which you are now for the first time assembled, is the result of the wisdom of previous Legislatures; and all that was confided to the Government of the past year was to

complete the work which had been so ably commenced. Though it has often been suggested, that some improvements might originally have been made in the plan, yet it was impossible to adopt them after the building had far advanced. As it is, however, we have reason to congratulate our fellow citizens upon the possession of a Capitol, which is an ornament to the State, and in beauty of materials and style of execution, inferior to no building for a similar purpose among our sister States. Of the faithfulness and diligence with which the Commissioner has performed the laborious duties of his appointment in superintending the completion and furnishing of this edifice, the work around you affords the most satisfactory evidence.

Though the cost of this House has been great, yet it is not equal to the amount which has been usually expended in erecting public buildings of a similar kind. The expense, perhaps, will not be regretted when we consider that it is intended not only for the accommodation of the present age, but will be transmitted to future generations as a monument of the liberality and patriotism of their predecessors. And while those who succeed us on this stage of action, shall sit in these halls, and contemplate the history of the present time, may they find nothing in the public or private transactions of their fathers, that can give cause for regret, or shall not be equally calculated to excite sentiments of patriotic pride, satisfaction and gratitude.

SAMUEL E. SMITH,

COUNCIL CHAMBER,

Augusta, January 9th, 1832.