

MAINE STATE LEGISLATURE

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RESOLVES

OF THE

THIRTEENTH LEGISLATURE

OF THE

STATE OF MAINE,

PASSED AT THE SESSION

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

PUBLISHED AGREEABLY TO THE RESOLVE OF JUNE 28, 1820.

AUGUSTA:

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

1833.

such duties only as are required for the purpose of a revenue sufficient to defray the ordinary expenses of the General Government confined to its appropriate objects and economically administered.

Resolved, That we heartily approve the policy and measures of President Jackson's Administration, and in the present difficult and threatening aspect of public affairs, we look with confidence to the patriotism, vigilance and firmness of our Chief Magistrate as sure pledges that all his efforts will be directed to preserve unimpaired the union, happiness and glory of our Republic.

Resolved, That the patriotic spirit and tone of the President's recent proclamation, relating to the extraordinary proceedings of South Carolina, meet our warmest approbation, and we approve of the principles and policy avowed therein, as expounded, not in accordance with the federal doctrine of consolidation, but with the democratic doctrine of State rights and a limitation of action of the Federal Government to the powers expressly delegated to it, by the Constitution, and in accordance with the several messages of President Jackson to Congress, and the uniform tenor of the Acts of his Administration—And in support of all Constitutional measures adopted by him to preserve the Union, we tender him our undivided support.

Resolved, That the Secretary of State, be and hereby is directed to transmit a copy of these Resolves with the Preamble to each of the Representatives in Congress from this State.

Resolved, That the Governor be and hereby is requested to transmit a copy of these Resolves with the Preamble to the Executive of each of the other States of this Union and the President of the Senate of the United States.

Approved February 20, 1833.

STATE OF MAINE.

IN SENATE, February 12, 1833.

The Committee to whom was referred so much of the Governor's Message as relates to the Claim of Maine upon Massachusetts, with the accompanying documents, have had the same under consideration, and ask leave to make the following

REPORT.

At the Session of the General Court of the Commonwealth of Massachusetts, in the month of March last, a report upon the claim of this State to a balance of the amount received from the United States for disbursements during the last war, wholly adverse to said claim, was accepted in both branches of

that Legislature, and the further consideration thereof referred to the then next General Court. By this measure the two States are placed at issue on the subject, and it seems proper that some mode should be devised for determining the controversy.

It is indeed desirable that collisions between neighboring States, which are both sovereign so far as the matter in question is concerned, should be anxiously avoided; but it is no less desirable that right should prevail between the parties. While therefore we would on the one hand provide for an amicable adjustment of our claim, we would on the other, endeavor to have it adjusted on its true merits.

Massachusetts, as this Legislature has heretofore been informed, retains that balance to reimburse herself for certain expenses incurred in the prosecution of the original claim upon the General Government, and alleges a right so to do, under the Act of Separation. This act would be better understood, if, instead of a "*convention*" between the parties, it be regarded, agreeably with its origin, as a *grant* offered by Massachusetts and accepted by Maine. It is thus to be taken as the deed of the former, cautiously framed to guard her own interests, and by principles of equity as well as law, to be construed, in cases of doubt, most strongly against the grantor. With this understanding, it cannot easily be conceded, that the reservation, made for her own purposes, of the bare privilege of having the amount belonging to Maine, in the original claim, pass through the hands of Massachusetts, should constitute her an agent to prosecute said claim, with unlimited powers, both as to agency and expense. If powers so extensive were intended to be retained by the grantor, it seems clearly proper that they should have been expressly reserved in the grant. Nor does the allegation, that the claim was in the name of Massachusetts alone, and could not be severed, prove that she must of necessity be the sole agent for prosecuting it, since it has *in fact* been prosecuted by the two States jointly, as was doubtless intended by the framers of the Separation Act. We cannot therefore concur with the Legislature of that State, in the opinion that she was "made the agent of the parties jointly interested in the claim, with power to prosecute it on their joint account," and if not, no "implication of authority to incur expenses on the joint account" can be raised therefrom. Had nothing been received from the United States, it is scarcely to be supposed that Massachusetts would have demanded of Maine a contribution towards those expenses; yet under the supposed agency, her claim would have been as valid in that case as it can be in the present.

It has not moreover occurred to us, that every other "construction" than that put by the Legislature of Massachusetts, on the clause in question, of the Separation Act, "is too limit-

ed and literal for an instrument of this nature, *a convention or agreement between two States.*" The construction that supposes each State to have been left by that Act, at liberty to prosecute its interest in the joint claim, in its own way, if more literal, is not less liberal. This argument is also the less available, inasmuch as Massachusetts, in the same Act, took care to provide for being reimbursed in any expenses to be incurred in the prosecution of certain other joint claims of much less importance—of so little indeed as not to be worth the trouble of the concurrent action of the two States.

Were all this otherwise, however, and should Massachusetts be allowed an equitable claim for these expenses, as she probably would have been if they had been thought to have been judiciously incurred; we cannot but think the result must still be materially different from that at which her Legislature seems to have arrived. Massachusetts is not the only party which has "paid great attention to the claim." Has "it often been presented to the consideration of the Legislature by the Governors of that Commonwealth?" So also it has been by the Governors of Maine. Has "the demand at all times received the attention from every branch of the government, due to its importance," with them? So it has with us. Did "special agents go to Washington for the purpose of forwarding the claim, by authority of the Legislature" of that State? An agency was employed at the same place, for the same purpose by this State, at the special instance of the Executive of Massachusetts, proportional as to number, and, as the present Governor of that State will doubtless recollect, of at least equal efficiency. We are wholly misinformed then, if the report referred to is correct in stating, that "Massachusetts has had the sole care of this claim."

Having thus, as we believe, performed our full proportion of service in the prosecution of this claim, and having been at the sole expense of our own agency, there seems to be as little ground in equity as in the compact, for the demand on the part of Massachusetts, that this State should contribute toward the payment of their agents. Your Committee are inclined to hope that this demand, which forms the principal part of the amount retained, may yet be relinquished. In such event, it might perhaps be advisable for this State to withdraw any objections to other reasonable expenses, if such there are. Should we be disappointed in this hope, the obvious alternative seems to be that of submitting the contested claim to arbitration. Under these impressions, the Committee ask leave respectfully to recommend the passage of the accompanying Resolve.

By order of said Committee.

BENJA. RANDALL, CHAIRMAN.

Chapter 39.

Resolve for adjusting the Claim on Massachusetts.

Approved February 21, 1833.

Whereas, It appears that objections are made on the part of the Commonwealth of Massachusetts, to the payment of the balance claimed by the Resolve of this State passed on the fifth day of March last; *and whereas* The mutual interests of the two States require the speedy determination of the misunderstanding between them; Therefore,

Resolved, That the Governor, with advice of Council, be authorized to adjust and finally settle the Claim made as aforesaid, by arbitration or otherwise, as to him may seem advisable.

Chapter 40.

Resolve for the relief of Samuel Leach.

Approved February 21, 1833.

Resolved, That, if within six months from the passing of this Resolve, Samuel Leach shall pay to the Land Agent, or to any person appointed by the Land Agent for the purpose, the sum of Fifty Dollars, together with the costs which have arisen in a suit, brought by the State against Samuel Leach and William Snowman, Jr., he the said Land Agent is hereby authorized to discharge the judgment and execution thereon which the State recovered in said suit.

Chapter 41.

Resolve for the benefit of the town of Carthage.

Approved February 21, 1833.

Resolved, That the County Commissioners of the County of Oxford be and they hereby are authorized to expend,