

MAINE STATE LEGISLATURE

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RESOLVES

OF THE

FIFTEENTH LEGISLATURE,

OF THE

STATE OF MAINE,

PASSED AT THE SESSION

Which commenced on the seventh day of January, and ended on the twenty-fourth day of March, one thousand eight hundred and thirty-five.

Published agreeably to the Resolve of June 28, 1820.

AUGUSTA:

WILLIAM J. CONDON.....PRINTER TO THE STATE.

1835.

Expenses of Artillery and for powder	-	-	-	-	18	00
“ “ Militia for 1834	-	-	-	-	485	27
“ “ “ “ 1833	-	-	-	-	17	00
Printers' Accounts	-	-	-	-	2124	89
Miscellaneous Accounts	-	-	-	-	2924	92
Amount of Money paid as bounty on Animals	-	-	-	-	29	64
					<u>6953</u>	<u>00</u>

Chapter 58.

An Additional Resolve for the payment of accounts against the State.

Approved March 23, 1835.

RESOLVED, That there be allowed and paid from the Treasury of the State out of any monies not otherwise appropriated to the several persons mentioned in the Additional Roll of Accounts No. 16, the sums set against such persons names respectively, amounting in the whole to the sum of Six Thousand Nine Hundred and Fifty Three Dollars—in full discharge of the accounts and demands to which they refer.

STATE OF MAINE.

IN SENATE, March, 14, 1835.

The Joint Standing Committee on the State Prison, to whom were referred so much of the Governor's Message as relates to the Penitentiary System and the State Prison, with the accompanying documents, the Reports of the Warden and of the Inspectors of said Prison, and the Report of the Joint Standing Committee on the State Prison, of the last Legislature; also, an Order directing certain inquiries respecting the debts due to and from the State, on account of the Prison,—have attended to the duties assigned to them; and ask leave to make the following

REPORT:

In pursuance of said Order, the Committee have made such examination of the books and papers of the Warden, as time and means would permit. Numerous errors were found in the "list of demands" named in said order, a few of them being below the amount actually due, and many more being either above it, or altogether mistaken. No improper motive, however, is believed to be attributable to the Warden or Clerk, in reference to these errors. The list was said by the Warden to be certified by him under the impression that it was wanted

only for the purpose of making estimates, and not with a view that a balance between the State and the Warden should be founded thereon. The certificate is indeed, concluded in terms which a cautious man would have avoided, but it is said, no doubt truly, that the terms "without reservation, free and unencumbered," which were prescribed by the Committee appointed by the Executive, were designed by them, only as a guaranty that the demands had not been assigned or pledged, which was conformable to fact.

The balance of these errors amounts to \$472 39, which deducted from the \$10,662 22, reported to the Executive Committee, leaves \$10,189 83, as the amount actually due, Oct. 31st, 1833. Of this amount, \$3,703 37, have been since paid; and the Norris note, secured by Holt, of \$3,477 22, other debts of \$2,092 63, believed to be in safe hands, and others amounting to \$916 61, considered desperate or doubtful, remain unpaid. During the year ending Oct. 31st, 1834, the further sum of \$1,927 35, became due to the State, from the persons, in the sums named in the accompanying list. This amount, with the exception of about \$25, is believed to be safe. To these outstanding debts of \$8,413 81, must be added certain collateral securities to the Banks holding Foster Bryant's notes of \$3,399 94, making the whole amount of \$11,813 75.

It also appeared that there was due from the State, on account of said Prison, the sum of \$4,382 54, as by the accompanying schedule. The former sum has been prematurely credited, and the latter prematurely charged to the State.

The estimates of Stock on hand, as given in the Reports of the Warden and Inspectors, have been made by appraisers mutually agreed on by them, and are understood to have been "at the rate" of the actual value, in the opinion of said appraisers.

The circumstances attending this investigation, as well as all other considerations that have presented themselves, have led your Committee to the unanimous opinion, that the books of the Warden should be kept, and his settlements, both with the Inspectors and the Legislature, should be made on the principle recommended by the Executive Committee. As the Warden is the servant or agent of the State, his books as Warden, should be the books of the State. His settlements also should be predicated on *real* and not on *nominal* transactions. They should be the results of actual receipts and expenditures, and not, as heretofore, of premature debits and credits. The Warden should also be held, as a faithful public servant, to use due diligence in the collection of outstanding debts, without the opportunity of shielding himself behind the responsibility of his bond from any imputations of neglect in this particular—an expedient to which he may resort, if permitted prematurely to charge himself with those very debts, notwithstanding he may reserve the claim of again crediting them should they prove unproductive.

Accordingly, a settlement has been effected with the Warden on the principle suggested, subject, however, to the pleasure of the Legislature. Having guaranteed, that the foregoing amount of debts receivable, was actually due, he has been credited with the same, as prematurely charged to himself, and has been charged with the foregoing amount of debts payable, as prematurely credited. This settlement is substantially as follows :

State of Maine, in account with Joel Miller, Warden State Prison.

Dr.		
For sundry premature credits, - - - - -		\$11,813 75
“ Balance of account of 1833, - - - - -		7,446 87
		<hr/> \$19,260 62
For amount due State to balance, - - - - -		1,142 74
		<hr/> \$20,403 36
Supra Cr.		
By error in account of 1828, 12 79		
“ “ “ 1829, 23 14		
“ “ “ 1830, 70		
“ “ “ 1832, 328 90		
“ “ “ 1833, 49 49	- - - - -	414 02
Balance of account of 1831, - - - - -		3,926 08
“ “ “ 1832, - - - - -		787 40
“ “ “ 1834, - - - - -		3,672 92
By charges for interest relinquished in 1831, 9 09		
“ “ “ “ 1832, 144 18		
“ “ “ “ 1833, 66 13	- - - - -	219 40
“ Loan of 1833, - - - - -		7,000 00
“ Amount of premature debits, - - - - -		4,382 54
		<hr/> \$20,403 36

The original account of settlement, signed by the Warden, and having the aforesaid lists of debts annexed, is herewith submitted, for the purpose of being deposited in the Treasurer's Office, should it meet the approbation of the Legislature.

In this settlement no interest account has been allowed on either side. The Warden has indeed sometimes borrowed money for the use of the Prison, the interest of which would be a proper charge against the State; but on the other hand, he has, perhaps in consequence thereof, received interest on demands due to the State, for which no credit has been given, larger by about the amount of interest on borrowed money, it is believed, than the amount of interest paid on debts due from the State, of which no charge has been made. As no interest account of this kind, however, was kept with the State, under the old system of book keeping, it was deemed difficult, if not impossible, to ascertain the precise balance. The Committee, under the circumstances of the case, have judged it expedient

and not inequitable, to consider the interest accounts as balancing each other; and to this the Warden finally assented.

From the information your Committee have been able to obtain, they also believe that the other suggestions of the Executive Committee are substantially correct. While nearly all other well ordered State Penitentiaries produce an annual income, ours has subjected the State to much expense. Going back to the time when the present Warden came into office—something more than six years—the average annual amount drawn from the Treasury, has been nearly \$7,000. Making all reasonable deductions for the actual value of the increased stock on hand, and of debts due *to*, beyond those due *from*, the Prison, and for \$1,750, paid into the Treasury, the average annual outset of the Prison, including the pay of officers, cannot be fairly estimated much below \$4,500. This unproductiveness of our Prison cannot, however, be mainly, if in any considerable degree, attributed to the inefficiency of the Warden. Much the greater part, at least, it is believed, is owing to the unfitness of the establishment for the purposes designed. Two single items of extra expense, occasioned by the inconvenient location, and ill construction of the Prison and yards, are estimated at over \$3,000. They are those of extra guards and the transportation of rough granite to the Prison. These, although the heaviest, are by no means the only cases of unnecessary expenditure. It is only fair further to state here, that the number of convicts at this Prison is less than at others.

Scarcely any part of the establishment indeed appears to be as it should be. The only substantial construction is that of the cells, and these being originally designed for solitary confinement, now almost entirely discontinued, are unsuitable for any other purpose; and from the impossibility of ventilating, drying or heating them, are unfit even for that. All the workshops and fences of the yards, which are much more extensive than such as would be required in a proper location, are fast falling to decay, and can by ordinary repairs, be made to answer their purpose only two or three years longer. Within the same time the valuable lime rock, which seems to have offered the principal inducement for the present location, will probably be nearly consumed. The Warden's house, and the building for dining and cooking rooms, seem to be the only constructions which can, within any reasonable amount of expense, be made useful.

Formerly the prevention of crime, by the terror of the punishment inflicted, was regarded as the only legitimate object of criminal laws. Modern experience, however, has proved that the reformation of the criminal is a further object worthy of the attention of legislators as well as philanthropists. This object can at best be but very imperfectly attempted in the existing Prison.

A change would therefore seem to be required, within two or three years, of the whole establishment. It is then high time

to be making preparations for the purpose. In order, however, to avoid a second improvident investment of \$50,000, which, after hanging as a burden on the State for ten years, may be again thrown away, it is important to obtain all the information, that modern improvements in prison discipline, and the employment of convicts, have placed within our reach, before any plan or location for a new penitentiary should be adopted. This can be done efficiently only by persons specially designated for the purpose.

The amount payable by the Warden being \$4,382 54, and the amount receivable, of \$11,813 75, being estimated by the Committee to be worth about \$9,000, it might seem reasonable that the latter should be made to meet the payments of the former. But as the principal amount receivable consists of two large demands now in suit, the time of recovering which is uncertain, and cannot be hastened, it may be impossible to meet the demands against the State by means derived therefrom, with the promptitude which public justice and the public interest require. It is therefore thought advisable to make provision by appropriation for the payment of a large part of the debts payable as aforesaid; and in consequence further to provide, that if the Warden shall at any time, receive a larger amount of money than may be needed for the use of the Prison, the excess shall be paid into the Treasury.

For the several objects herein contemplated, your Committee ask leave to recommend the passage of the accompanying Resolves.

All which is respectfully submitted.

B. RANDALL, Chairman.

Chapter 59.

Resolve relating to the State Prison.

Approved March 23, 1835.

RESOLVED, That the settlement made by the Committee on the State Prison, with the Warden of said Prison, on the fifth day of March A. D. 1835, be confirmed, subject to such equitable alterations as may hereafter be found just: and that said Warden pay into the State Treasury the balance of eleven hundred and forty two dollars and seventy four cents, thereby found to be due from him.

RESOLVED, That the Governor and Council be authorized to draw their warrant on the Treasurer in favor of the Warden of the State Prison for such sums as may by them be thought necessary to pay the debts due from the State

on account of said Prison, not exceeding the amount of four thousand dollars, and that a sum not exceeding that amount be appropriated from the Treasury for the purpose: and whenever said Warden shall have in his hands monies belonging to the State exceeding the amount of fifteen hundred dollars, which shall not be immediately required to pay the debts of, or purchase materials or supplies for said Prison, he shall pay such excess into the State Treasury, unless he shall procure a certificate from the Inspectors that such payment would be inexpedient.

RESOLVED, That the Warden of the Prison be required to cause to be collected as soon as may be all debts due, or that may become due to the State on account of said Prison.

RESOLVED, That the Governor with advice of Council, be authorized to appoint three suitable persons to be Commissioners of the State Prison, whose duty it shall be, from investigations made by one of their number or otherwise, at the Penitentiaries or State Prisons of Pennsylvania, New York, and such of the New England States as may be thought proper, and from such other means as they may deem expedient, to report to the Governor and Council in season to be laid before the next Legislature, the best system, in their opinion, of Prison Discipline, and the most advantageous departments of labor, for convicts in the State Prison; and, on the system thus recommended, the best location and most suitable construction of buildings for a new State Prison in this State, having regard to economy and cheapness of provisions, fuel and raw materials, also, the additional means of the State for erecting such buildings at the present location; with an estimate of the expense of completing the proposed establishment: and such Commissioners shall receive such compensation for their services and expenses, as to the Governor and Council may seem reasonable; for the payment of which a sum not exceeding six hundred dollars is hereby appropriated from the Treasury.