

MAINE STATE LEGISLATURE

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RESOLVES

OF THE

EIGHTEENTH LEGISLATURE

OF THE

STATE OF MAINE,

PASSED AT THE SESSION

WHICH COMMENCED ON THE THIRD DAY OF JANUARY, AND ENDED ON
THE TWENTY-THIRD DAY OF MARCH, ONE THOUSAND
EIGHT HUNDRED AND THIRTY-EIGHT.

PUBLISHED AGREEABLY TO THE RESOLVE OF JUNE 28, 1820.

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

FELLOW CITIZENS OF THE SENATE,
AND OF THE HOUSE OF REPRESENTATIVES :

It is a source of great gratification that, in assuming the honorable and responsible office to which I have been elected by my fellow citizens, I can congratulate you, and them, upon the continued health we have enjoyed, and the benignant smiles of Providence upon the labors of the husbandman.

It would afford me much satisfaction if I could also congratulate you and them upon the continued prosperity of our country, and the natural and satisfactory results which have heretofore attended the enterprise, intelligence and vigorous action of the American people, in their various departments of labor. But it is a fact too obvious to be disguised, and too serious to be overlooked, that a change has come over the long continued prosperity of this people, and that a check has been given to enterprise and exertion in public works and private operations, which has produced and is producing embarrassment, derangement and distress in the business and prospects of a large portion of our people.

It is a sad and disheartening spectacle to see a young, vigorous and strong nation, with powers and capacities of almost unlimited extent, in a time of profound peace, when all the causes of national and individual wealth were in full operation, when industry was reaping its reward, and contentment and satisfaction were the attendants of exertion—suddenly struck down from this palmy state of prosperity and happiness, to suffer all

the evils of suspended action, deranged currency, general distress, commercial embarrassment and individual ruin. It is natural that men should ask and seek for the cause of such revulsions; and that they should, with the independent spirit of freemen, hold those to whom power has been delegated, responsible for their acts in producing such calamitous results.

A free and enlightened people will yield a generous confidence and rational support to the government of their choice, but they will never surrender the right to investigate fully, and judge impartially, the tendency and effect of public measures upon the prosperity of the country. Whoever supposes or hopes that such a people will follow without hesitation, or adopt without investigation, any course which may be pointed out by those in whom they have confided, simply because it originated with a particular party, will sooner or later ascertain that he has mistaken the genius and spirit of our constitution, and the character of this people.

The calm judgment of the whole people is the tribunal before which the acts of public men must pass in review; and it is a tribunal which can seldom long be deceived, and never can be corrupted.

The chaotic state of the currency of the United States is a topic of intense interest and free investigation; and while the fact is admitted by all, and the fatal effects of this derangement are obvious and uncontradicted, the cause and the remedy are subjects of immediate and pressing attention.

Without pretending to be able and skilful financiers, or capable of fathoming all the deep researches of those who are, the great mass of the people well know and remember, that six years since, this nation enjoyed a currency unsurpassed in the history of the commercial world. It united the security of the precious metals and the convenience of paper. It was convertible at any moment into gold and silver, and had obtained the confidence of the whole community. It was a currency which answered the great purposes of commercial exchange, possessing an equal and convertible value in every part of our widely extended land, and enabling sections most distant from

each other to negotiate with ease and safety. When it was deemed expedient by Government to change or destroy it, all practical men admitted that we then enjoyed a safe, sound and highly convenient currency, which could hardly be improved, and might be impaired, or destroyed, by sudden changes or ill considered schemes of improvement. The events of the last year have fully demonstrated that the predictions and fears of those who anticipated evil from untried and uncertain experiments upon the currency of the country, were not the mere assertions and prophecies of zealous opponents, but the far reaching views of experienced statesmen, anxious to preserve what experience had proved salutary and useful.

It is undoubtedly true that there is a disposition in the community to attribute to the action of Government effects which are the result of other causes. But when, as in the instance before us, the General Government avowedly undertook to interfere and to change the fixed and delicate operations of the monetary system, by a new and untried experiment, with the promise of equally favorable results, and when predicted effects have resulted from the causes in operation, it seems just and proper that the people should hold their rulers responsible for the evils which have come upon them.

I should be most happy, if it was in my power to suggest for your consideration a course of State legislation calculated to relieve the community and restore again a sound currency, and the regular operations of commercial intercourse. But it seems to me plain that, as the evils have come upon us by the action of the General Government, we must look to the same source for the legislation which shall relieve us. A currency to answer the great ends for which it is designed, must be *National* in its character, and it is in vain to expect that the independent action of twenty-six different governments can ever produce a uniform or wholesome state, without more concert of action than can ever be hoped in their legislation. The remedy for this National evil must be found in National legislation.

It is in vain, therefore, for the people to look to their State

governments for relief, but their wishes and demands must be carried to the halls of Congress, where alone the power exists to remedy the evil under consideration.

I am aware that the existence of this beneficial power is denied, upon the authority of men high in office; but I cannot yield my assent to propositions which regard government as created merely for its own sake, and destined mainly to collect revenue, in a currency of its own, to enable it to carry on its operations and pay its officers. Government, as republicans understand it, is created not as an end, but as a means of advancing the interests, maintaining the rights, and protecting the property and the persons of the people; and those who are the incumbents of its offices are not a privileged class, for whose benefit and support exactions are made upon the people, but agents to carry forward and foster the great objects it has in view, the prosperity and happiness of the whole community.

It is peculiarly unfortunate, after a long series of experiments upon the subject, without doubt or hesitation, when these experiments have failed, and the old institutions are broken up, and we are in the midst of doubt, confusion and embarrassment, and are looking with anxiety for relief to our National government, that those who administer it should be unexpectedly doubtful of their authority, and scrupulous of using the means in their power, and that those doubts should be carried to the extent of proposing a separation between the government and the people, in the matter of currency. It is in the power of Congress to make this separation, by compelling the payment of all dues to the government in gold and silver, dissolving all connection with banks, and making each collecting officer a special depository; thus extending most alarmingly executive patronage and power, and leaving the people to manage as they are able, with a depreciated or a fluctuating paper currency. But it may well be doubted whether, by such a course, the great object for which government was constituted will be answered, or whether a thinking people will long consent to a scheme which must benefit the few, to the injury and distress of the many.

A Government which aims at nothing higher than to sustain itself, as an independent or even antagonist power to the people which created it, and which regards no other view than to keep itself in motion, is not such a government as our fathers instituted, and we ought to enjoy. The great and leading object of good government is the welfare of the people, and the operations of its machinery are only important as they subserve those ends. The interests of such a government and those of the people, are one and inseparable. One currency for the people and another for the government and its officers, would be absurd as well as ruinous. I regard it as clearly within the power, as it is clearly the duty, of the general government, to take care of the national currency, and to adopt those measures which shall speedily and surely restore to us a sound and healthy circulation; which will be doubly welcome and valued from the sufferings we have experienced since its destruction.

The recent demonstrations of the popular will clearly point to this duty on the part of our national rulers, as one demanding prompt and efficient action; and we have a right to expect that those who profess obedience to the popular will, as a cardinal principle of action, will follow without hesitation the course demanded by the voice of the people.

In the course of untoward events, occurring under the unfortunate system pursued, a general suspension of specie redemption by the banks was almost simultaneously adopted in the different States, in the month of May last, and such suspension has been continued until this time.

The course was, in New England at least, unprecedented, and can only be justified by stern necessity, and the intention and hope of preventing greater evils and more extensive embarrassments, which would be likely to result from any other course.

It has produced a state of things which ought not to exist one moment longer than such necessity exists—and the Banks should be required to resume specie payments at the earliest moment when it can be done consistently with the best interests of the whole people.

An irredeemable paper currency is justly obnoxious to the community, and can be but temporarily endured as a choice of evils. The only paper currency which can or ought to find favor is one based upon the precious metals, convertible, at the will of the holder, into gold and silver, without hindrance or delay.

The present state of the Banks, and the peculiar relation they now sustain to the community, call for a watchful guard, and strict investigation into their means and modes of conducting business. But in addition to the confidence the public justly feel in the integrity and capacity of those who administer their affairs, we have a strong guarantee of safety in the provision which, to a certain extent, holds individual property liable for the debts and promises of the corporation.

But at all times, and especially in the present aspect of affairs, the Banks must expect, what the people have a right to demand, that the constituted guardians of the public interest, will carefully investigate and fearlessly adopt all measures deemed necessary to bring the present unfortunate course to an end, and restore again the former safe and satisfactory modes of conducting their affairs.

It cannot, I think, be expected that the Legislature will legalize by statute the suspension, or release the Banks from their legal obligations to their creditors, as such a course, I apprehend, would be unconstitutional and inexpedient; or, that on the other hand, it will take advantage of a state of things so extraordinary, unprecedented, and unexpected, to declare their charters forfeited.

The forbearance of the people, and the creditors of the Banks, demonstrates that they regard the course pursued, if not with favor, at least with indulgence, and there can be little danger of vexation or injury to these institutions, so long as the people are satisfied that they are acting upon honorable principles, and with a sincere desire to redeem their notes as soon as circumstances will justify the resumption of specie payments. The condition and operations of the Banks, during the recent difficulties, will be laid before you in the monthly returns, and

the Report of the Bank Commissioners; and from these you can judge whether, in any instance, there has been a want of care, and circumspection, and caution, in their management, or any evidence of a design to improve their temporary release, to issue bills beyond their available means. Such a course would deserve most pointed animadversion, and would be a just cause for the forfeiture of their chartered rights. If the present state of affairs is to continue, I submit to your consideration the expediency of a full investigation of the subject, and the enactment of such laws as may be necessary, in addition to the existing Statutes, to prevent that worst of all financial evils, an irredeemable currency, in which the people have no confidence, and which may daily sink in public estimation, and in market value. It would be infinitely better to suffer all the evils of a currency insufficient in amount to meet our wants, than to seize upon such a temporary relief, which must result in final fraud and ruin. It is a question deserving your consideration, whether any Bank should divide any part of its profits, or means, during the suspension of specie payments. It would seem the dictate of prudence, as well as justice, when, from any cause, an individual or corporation suspends payment, that all means should be faithfully and scrupulously husbanded, to meet eventual liabilities. In making these remarks, I trust I shall not be considered as insinuating any thing against the character of those who conduct our banking institutions. I believe that an enlightened self interest, and a high sense of their obligations to the Banks and to the public, and strict moral integrity, have led, and will still lead them, to act with reference to eventual redemption, and to preparations for the event. But the rights and interests of the public are first to be regarded and secured, and honest men will not object even to strict regulations, when the rights of a whole people are in question.

In the present state of affairs, it is not probable, that any new bank charters will be asked for, but I cannot forbear the remark, that the multiplication of small local banks seems to be inexpedient and unwise; and that if a consolidation of the existing banks, by which the number should be reduced but the

capital not diminished, could be effected, by the consent of the corporations, the public good would be promoted by having institutions which would not be sensibly affected by small or trifling causes, and so located and conducted as to accommodate the commercial community. The chimerical and utopian notion, that the vast and extending business of a public so full of enterprise, vigor and zeal as the American nation, can be carried on in a currency of gold and silver only, is now, I believe, exploded. The authors of such a proposition can never be regarded as safe counsellors or practical statesmen. The history of the whole commercial world refutes the proposition, and the only wonder is that any man should have proposed such a plan, or any yielded assent to such a proposition. It is manifest that we must have a mixed currency, if we would remain what we are, or advance in our career; and the duties of legislators would seem to be plain, to take care that, as far as possible, it should be both safe and convenient, and subject to as few fluctuations or changes as practicable.

The law which forbids the issuing, or passing, or receiving bills of a less denomination than five dollars, which originated in the expressed hope that thereby the precious metals would take the place of those bills in general circulation, has been found by experience to be inefficient and powerless, except in its operation upon our own banks. The bills of banks of other States have taken place of our own bills, and it is an admitted and undoubted fact, that the law, so far as concerns individuals, is disregarded in practice. The almost absolute necessity of having a medium of exchange of smaller value than five dollars, and the withdrawal of specie from circulation, has probably led the people to this open disregard of a statute of our State. Such a result is much to be deprecated, as obedience to law is a cardinal virtue in a republic, and a disregard of one law, however obnoxious, serves to weaken the reverence for the whole code. But it is manifest that the object proposed, the introduction of gold and silver into the circulation of the country in place of small bills, can never be effected but by the concert of the several adjoining States, the bills of whose

banks circulate in each, and that our present restraining law only compels this State to pay a large annual interest to the banks of other States, and deprives our own banks of the privilege of supplying the circulation. It would seem to be expedient to repeal the existing law, and wait for calmer times, and more mature deliberation, and mutual concert of sister States, before attempting to effect the object, which to many is still desirable.

The State, whose interests are entrusted temporarily to us, is rich in resources already discovered, and we have reason to believe is still richer in those undiscovered, or undeveloped. With a sea coast and harbors unrivalled in extent and capacity, with a tonnage second to that of but two other States in the Union, with a hardy race of unequalled seamen, shrinking from no toil or danger, but prompt in action and ready in every emergency—sustained and fostered by the intelligence, capacity and enterprise of our commercial and mercantile community, Maine may justly rejoice in her maritime character and capacity. In our inexhaustible quarries of granite, slate, lime rock, and beds of iron ore, we have sources of employment for our vessels, and wealth for our citizens, and even the solid ice of our northern climate is converted into an article of commerce. The immense forests of pine and other valuable timber, within the rightful limits of this State, are justly regarded as of immense and unquestionable value, for from them must be drawn the supply for a large part of the Union, and the demand must steadily and permanently increase. Temporary embarrassments or fluctuations may produce a check in the sale, or a distrust of the real value. But whoever calmly considers, and carefully and deliberately calculates the cost and charges and the ultimate value of manufactured lumber, must be satisfied that there is no safer investment, at reasonable prices, corresponding with such estimates, than in timber lands, situated upon or near navigable waters. The value of such lands yet unsold and belonging to this State, is very great, and with prudent management and foresight on the part of legislators may yet yield a revenue sufficient for all our wants. But whether the title to the lands is in the State or in individuals, we have

within our borders this source of wealth and profit, and it becomes us to protect and cherish it. In the developement of the resources of our State, by measures of internal improvement, the improvement of the navigation of the rivers, lakes and streams, through which lumber is transported to market, claims early attention. I have been informed by practical and judicious men, that by an economical expenditure of small sums of money in clearing those streams and erecting dams, a vast amount of our best timber, which is now almost valueless, may be easily and safely transported to market. If, upon investigation, facts should sustain these opinions, it is deserving your consideration whether justice and expediency do not authorize you, as legislators and guardians of the interests of Maine, to aid in the prosecution of such undertakings. The State is yet the principal owner of the lands to be benefitted, and in a mere pecuniary view it would seem good policy to encourage and aid in these improvements, as adding immediately and visibly to the market value of our timber lands, and eventually to an increase of our receipts into the treasury, from the sale of those lands, much beyond the amount expended. The more liberal and extended view, which looks to the developement of all our resources, and to the advancement of public interests, with those of individuals, by decided action, will regard such operations as an encouraging commencement of a system of internal improvements, which shall hereafter bring into vigorous and successful action the powers and capacities of our State and its citizens. If Maine is ever to take and to hold the rank she is entitled to, by her natural resources, her abundant means and her undoubted capabilities, we must unitedly and vigorously and promptly follow the example of our sister States, by a well considered and judicious system of internal improvements, adopted without sectional partiality, or the bias of individual interests. The times are not, perhaps, at this moment propitious, but a great and strong people cannot long remain disheartened, or subdued, by calamity or misgovernment, and the time cannot be far distant when Maine, if her legislators are wise, will awake to her true and permanent interests, and go forward in

this great work, the development of her abundant resources. It is time to begin the work, even if our plans are limited and our means circumscribed. It has long been a source of regret that at the time of the separation from our parent Commonwealth, we did not acquire a title to all the lands within our limits. But we may congratulate ourselves and the people, that Massachusetts, in her legislation and her acts in relation to her lands in Maine, has exhibited the same high minded, honorable and liberal policy, which has always characterized her, and given her the high distinction and enviable reputation she enjoys. If the past is any guarantee for the future, we may confidently trust that Massachusetts will concur and aid in all reasonable and feasible schemes of improvement, in relation to the public lands.

The valuable lands belonging to the State are, by general understanding and consent, divided into two classes, the timber and the settling lands. I believe that those townships, which are principally valuable for the timber, are comparatively of little value as settling lands. A distinct and different policy may therefore be safely adopted in relation to each.

Our timber lands may be regarded chiefly as sources of revenue, and be sold, at such times, and in such parcels, as the pecuniary interests of the State may require. But the settling lands, in my view, are to be regarded not so much in reference to money which might be obtained by the sale, as in reference to their capacity to support and yield subsistence to a vigorous and hardy population. The leading object of policy should be to encourage the settlement of those tracts, and to place on them a free, enterprising and industrious people. Such a population adds infinitely more to the real wealth and power of the State, than thousands of dollars placed in the treasury, by some absent purchaser, who would feel no other interest than to realize money from the sale to settlers. The strong armed and strong hearted pioneers of civilization, who, leaving the accustomed comforts and enjoyments of established society, with steady perseverance and undaunted courage, penetrate and subdue our native forests, and, with the patient toil of years, await

the gradual introduction of the arts and comforts of their earlier life, certainly deserve all the aid and encouragement which can be justly extended to them.

They have obstacles, and difficulties, and discouragements enough to subdue any thing but Yankee enterprise and determination; and surely we ought not to add neglect or indifference to their claims, on the part of government.

The fertility of the soil, in the unsettled part of our territory, is placed beyond a doubt, by recent explorations and examinations, and strong inducements are there held out to emigrants to locate, with the almost certain assurance of eventual independence. It surely needs no extended argument to prove that, in every point of view, our first duty is to encourage the settlement of that territory. Let the lands not already located be located in conveniently small tracts. Let them be offered to actual settlers only, at a low price. Let the State retain the title, until settling duties are performed, and take great care that the actual settler has the fruit of his labor; and let that price, when necessary, be expended in labor on the highways, or other improvements. Let roads be opened to accommodate the settlers, and, what is more than all, let the settlers feel an assurance that the State is their friend, not in word only, but in deed, and will aid and protect them in their arduous struggles, and we shall find no want of men to people our territory.

Our interests as mere land holders would prompt to liberality in aiding, with regard to building roads, and other improvements, to bring the land into use, and a higher and more extended policy points to the same course of action. The road already commenced, leading to the Aroostook, is important in many respects, and the settlement of that tract is an object of paramount importance to the strength and security of our State.

I commend the subject to your attention, confident that a work which promises so much of good to the best interests of the State will not be suffered to languish.

Frequent changes in existing laws is an evil of great magnitude, and should never be encouraged for light or transient causes, or temporary inconveniences. Certainty and stability are,

in matters of positive enactment, frequently of more importance than the form or requirements of the rule, and society often suffers more from the doubt and uncertainty introduced by alterations and additions, which are assumed to be improvements, than by the casual and individual hardships of the former law. But when manifest injustice and general embarrassment result from the operation of any statute or law, it is the duty of wise legislators to abolish or remodel it. I submit to your consideration the expediency of so amending the law relative to the attachment of real estate, as to abolish the system of private attachments, by requiring all such attachments to be recorded in the Registry of Deeds for the County, or with the Town Clerk of the town where the land is situated, and also requiring that all existing attachments, in order to be valid from the time they were made, shall also be so recorded within a specified time.

I am aware that there are some considerations of convenience in favor of the existing law; but the manifest evils of the system seem to me far to outweigh them all. Secrecy is not to be favored in a republican government, and our whole system and course of legislation, in reference particularly to the title to real estate, is at variance with this feature. Our Registries of Deeds are established for the very purpose of giving public notoriety of title, and to enable any man, by inspection, to ascertain the existing facts. But the title may be perfect upon record, and the purchaser, relying upon that record, may lose his money and his title, by reason of some secret and unknown attachment before the purchase. The general conviction of this fact operates to embarrass negotiations in real estate, without benefit to any one, and defeats, in a great measure, the intended benefits of our system of registry.

The many recent examples of the assumption of power to punish or prevent assumed evils, by lawless and unrestrained bodies of men, self constituted and self authorized, have given fearful evidence of a spirit gaining strength in the community, at war with the very elementary principles and only safeguards of our institutions.

The will of the people *is* the supreme law; but it is that will constitutionally expressed and lawfully executed. The majority *must* govern—but they must govern by standing laws, equal in their operation and general in their exactions, and enacted by a majority of the whole people, and not by the sudden determination of an accidental assemblage. Theoretically and strictly speaking, according to our system, a law should be the expressed will of every individual citizen. But, in fact, the only practicable theory is that which authorizes the majority to govern.

It is evident that, under such a government, the great security for the rights of a minority is found in the provisions of the fundamental law, and the enactment and execution of general laws, reaching all and binding all, well considered and calmly adopted and judicially administered.

Constitutional law is the broad and ample shield under which a whole people rest in security and peace. Like the atmosphere in which we move, it presses with immense, but equal and balanced power, to sustain the body politic. It protects the infant in its cradle, and the magistrate in the seat of justice. It gives the consciousness of security and safety to the unarmed and the peaceful, and is more than bolts and bars in guarding every man's castle—his own domestic hearth. The weak fear not the strength of the powerful, and the poor and despised tremble not at the oppressor's frown. To such law every good citizen bows in cheerful submission, and with ready acquiescence, for it is but the embodied expression of his own sovereignty. But when, instead of the law of legislation, we have the law of the strongest, and, instead of judicial and executive administration, the summary inflictions of an infuriated mob, stung to madness by temporary rage, savage, remorseless and irresponsible, excited by some imagined insult or real injury, or perhaps by the expression of obnoxious and unpopular sentiments—we have a state of society at which the boldest may well tremble, and the most ardent despair.

If the liberty of speech means only a right to speak doctrines popular at the moment or place of utterance, and the freedom

of thought and action means only a right to think and act as the majority dictates—and if even violations of law or propriety are not to await the due process of law, but are to be punished without trial, by any number of men who may assume the authority and the right to determine the nature and extent of punishment, and to administer it at their own pleasure, trampling down law as not binding their will—then indeed will our fathers' struggles have been worse than in vain, and we shall justly become a bye-word and a reproach among the nations of the earth. Law and order must be revered and maintained, or we sink into that worst of all social conditions, anarchy, and become subjects to that most fearful of all tyrants, the will of the strongest.

Our system of municipal law consists of enacted statutes, and the numerous principles of the common law. It is certainly desirable, that as far as practicable, all laws should be clearly defined and positively expressed, so that little should be left to the construction, definition, or will of any individual, clothed with the power of administering them.

We repudiate the notion of judicial legislation, and hold judges bound to act as agents to expound and enforce existing laws. It is alike for the interest of all, therefore, to have those laws simplified and made certain, and particularly the criminal code, which defines crimes and their punishment. Where men's rights, liberty and reputation are at stake, as little should be left to judicial or executive discretion, or construction, as in the nature of things is practicable. I have thought that a codification of the criminal law, embodying a definition of all crimes known in the statutes and common law, and the punishment for each, would serve to render the law more certain, and better understood by the community, and leave less to construction or inference. You may, perhaps, deem it expedient to create a board for this purpose. I submit the proposition to your mature consideration.

Our Militia system had its origin in the early days of our country, and in its leading feature, the arming and disciplining free citizens in lieu of a standing army, is in consonance with

the genius and spirit of our republican institutions. It requires a personal service of our citizens, and the burden does not, like taxes, fall upon the property of the country, but necessarily upon those who are not wealthy. The system is intended for the protection of property, as well as individuals, and property ought, in justice, to be held to a contribution for its support. I am fully convinced of the utility and importance of a militia system, which shall ensure, at least, the arming and organization of the people, ready for immediate action and more complete discipline, should occasions arise for their services. In time of profound and long continued peace, it is natural that feelings of doubt and indifference toward an apparently onerous and useless system should at times arise; but reflection and calm deliberation will lead to the conclusion that a system founded by our fathers, those strong and clear headed men, who never adopted a measure simply because it was splendid in exhibition, is not to be overthrown or abandoned for light or transient causes. A new and better spirit is, I trust and believe, gaining ground in the community upon this subject, and by the adoption and enforcement of wise laws, which shall, as far as practicable, equalize the burthen and relieve those least able to bear it, and arouse a high and generous military spirit in the people, we may confidently trust to see this branch of our State organization assume the high and honorable stand to which it is entitled.

The report of the Adjutant General will exhibit the present state of our militia, with such suggestions as may to him appear important.

It is certainly a remarkable fact that, fifty-five years after the recognition of American Independence by Great Britain, and the formal and precise demarkation of our limits in the treaty of peace, the extent of those limits, and the territory rightfully subject to our jurisdiction, should be a matter of dispute and difference. I feel it to be my duty, in this my first official act, to call your attention to that vitally important question, the true limits of our State, and to express to you and the people my views of the claim set up by a foreign State to the rightful possession of a large part of our territory.

I do not intend to enter into a historical detail, or an elaborate argument to sustain the American claim on our North Eastern Boundary. The whole subject has been for years before the people, and our rights, and the grounds upon which they rest, have been ably maintained, and clearly set forth, in our formal documents and informal discussions.

I will not trespass needlessly upon your time and patience, by a recapitulation. If there is any meaning in plain language, and any binding force in treaty engagements—if recognition and acquiescence for a long series of years on the part of Great Britain in one uniform expression and construction of the boundaries of her Provinces of Canada and Nova Scotia, is of any weight, then the right of Maine to the territory in dispute is as clear and unquestionable as to the spot upon which we now stand. It requires, indeed, the exercise of charity to reconcile the claim now made by Great Britain with her professions of strict integrity and high sense of justice in her dealings with other nations; for it is a claim of very recent origin, growing from an admitted right in us, and proceeding, first, to a request to vary our acknowledged line for an equivalent, and then, upon a denial, to a wavering doubt, and from thence to an absolute claim.

It has required, and still requires, all the talents of her statesmen, and skill of her diplomatists, to render that obscure and indefinite, which is clear and unambiguous. I cannot for a moment doubt that if the same question should arise in private life, in relation to the boundaries of two adjacent farms, with the same evidence and the same arguments, it would be decided by any court, in any civilized country, without hesitation or doubt, according to our claim.

But Great Britain was anxious for a direct communication between her Provinces. She sought it first as a favor and a grant. She now demands about one third part of our territory as her *right*.

The pertinacity and apparent earnestness and confidence with which this claim is urged, in the very face of the treaty, and the facts bearing upon the question, have been increased,

I fear, by the probably unexpected forbearance, if not favor, with which they have been received and treated by the American authorities. It can hardly be a matter of surprise that the claim is pressed upon us, when, instead of standing upon the treaty—plain, definite and capable of execution as it manifestly is—our own General Government has voluntarily suggested a variation of that line, certainly in their favor, by running west of the due north line of the treaty, and there to seek the highlands; thus yielding up the starting point, the northwest angle of Nova Scotia, and throwing the whole matter into uncertainty and confusion. Fortunately for us, the English negotiators, thinking, probably, that a nation which would yield so much, would probably yield more, declined the proposition, unless other concessions were made. The remarkable adjudication made by the arbiter selected under the treaty, resulting merely in advice, the movement on the part of Maine, in 1832, in the negotiation in relation to yielding up the territory for an equivalent, the apparent apathy and indifference of the General Government to the encroaching jurisdiction by New Brunswick, her unopposed establishment of a wardenship over the territory—the repeated incarceration of the citizens of Maine, for acts done on this her territory, almost without a murmur of disapprobation or remonstrance, and the delay of the President to run the line as authorized by Congress, have all, I fear, served to strengthen and encourage the claim, which was first put forth with doubt and argued with many misgivings.

The commission and arbitration under treaty having failed, and our ultra liberal offers being either declined or neglected, the parties are turned back to their rights and their limits under the treaties of 1783 and 1814.

But in truth, the only question in dispute, or about which there was any difference between the two governments, until since the last war and the last treaty, was as to which river was the true St. Croix of the treaty. This being settled, and its head or source fixed, (as it has been) the line is to run due north to the south line of Canada, and the north-west angle of Nova Scotia. *That line should be run without delay, as authorized by Congress.*

We want the information and the facts; we wish to examine the height of land which divides the waters flowing into the St. Lawrence from those running into the Atlantic, and ascertain its elevation and character. We wish to have our landmarks placed on our exterior limits, and maintain our own.

We wish to test the truth of the assertion, that there is no northwest angle of Nova Scotia, and no such dividing height of land as the treaty contemplates, by a correct and scientific examination on the face of the earth. Surely rights of examination, which are secured to individual claimants, are not to be denied to sovereign States.

Our situation in relation to this question, owing to the peculiar nature of our government and institutions, is interesting, viewed either with reference to the foreign power with which we are at issue, or our own General Government. Our right and title, clear and perfect as we believe them to be, are, it must be admitted, subjects of dispute, and the first and great question is, how is this dispute to be settled? The line disputed is the eastern boundary of the United States and of the State of Maine. The General Government is the only power which by the constitution can treat with a foreign government, or be acknowledged or known by that government, in negotiations. Maine acknowledges the right of the General Government to establish the line, according to the terms of the treaty of 1783, and claims a performance of that duty without delay. But whilst she concedes that power, she insists with equal confidence upon the position, that no variation of the treaty line, no cession of any part of our territory, and no conventional line can be granted or adopted, without the consent of this State.

Whatever territory is included within the line running from the northwest angle of Nova Scotia westwardly along the highlands which divide those rivers that empty themselves into the St. Lawrence, from those which fall into the Atlantic ocean, to the northwesternmost head of the Connecticut river, and the line running directly south from said angle to the established source of the river St. Croix, is within the State of Maine.

If there is a dispute as to the location of that angle, and those

lines—that question, and that question only, is to be settled by the general government.

In making this assertion, we do not more distinctly acknowledge a power than claim the performance of a duty. In the first sentence of the Constitution of the United States, one of the important objects in the formation of that constitution, as there expressed, is, “to provide for the common defence,” and this duty is afterwards in the same instrument, more specifically pointed out in the provision, that “The United States shall guarantee to every State in this Union a republican form of government, and shall protect each of them against invasion.” Under that constitution, the exercise of certain rights was denied to the States; all not expressly taken away were reserved to the States—and certain new rights were created.

Foremost, and most important, of these newly created State rights, is the right, on the part of each State, to demand the aid of all, by the action of the general government, whenever any foreign power interferes with the territorial rights of such State.

No State is to be left to defend its soil and maintain its just rights single handed and alone,—to engage in border skirmishes and partizan warfare, and sustain that warfare at its own expense.

It is the duty of a State to claim and assert its rights to jurisdiction, and it is the duty of the general government to protect and maintain them, if just and well founded. The acknowledgment of this State right to protection is particularly important to Maine, environed by foreign territory, and forming a frontier State in the Union. Denied the power to negotiate with foreign governments, or to declare and carry on war in defence of her rights, this State can call, in a strong voice, upon that government to which has been delegated those high powers, for protection in the exercise of her jurisdictional rights. Perfect unity of purpose and frankness in disclosures ought to characterise all intercourse between the State and National Governments, on this topic. No course is so well calculated to lead to distrust and embarrassment, and to inspire confidence

in the opposing claimants, as diplomatic evasions and jarring and discordant correspondence. We would use no threats of disunion or resistance. We trust that it will never be necessary for a State to assume a hostile attitude, or threatening language, to enforce practically its claims to protection.

But Maine has a right to know, fully and explicitly, the opinion and determination of the general government, and whether she is to be protected, or left to struggle alone and unaided. I see little to hope from the forbearance or action of the British government. Their policy, it is apparent, is to delay a settlement of the question, and to extend their actual jurisdiction over the territory, that it may ripen into a right, or at least in future controversies give them the advantage of possession.

The loose and extremely undefined jurisdiction over the small French settlement at Madawaska, has been the foundation of a claim to actual jurisdiction, and the establishment of wardenship over the whole territory. In pursuance of this plan and policy, they have seized, at various times, heretofore, American citizens, and thrust them into prison, for alleged offences,—and during the past season, the Lieut. Governor of New Brunswick has visited the territory in person, and received the loyal assurance of such of its inhabitants as were ready to acknowledge their allegiance. A citizen of our State, Ebenezer S. Greely, now lies imprisoned at Fredericton, seized, as it is said, for exercising power delegated to him under a law of this State. The facts connected with this arrest, are unknown to me, and I therefore forbear to comment at this time upon them.

If the facts are, that he was so seized, for such a lawful act, the dignity and sovereignty of the State and nation demand his immediate release.

I am aware that we are met by the assertion that the parties have agreed to permit the actual jurisdiction to remain, pending the negotiation as it existed before. I have yet seen no evidence that such an agreement was ever formally entered into by the parties. But certainly Maine was no party to such an

understanding, and at all events it could never have been intended to be perpetually binding, or to extend beyond the termination of the then pending negotiation. That negotiation is ended. The old ground of claim at Mars Hill is abandoned; a new allegation is made—that the treaty cannot be executed, and must be laid aside. In the mean time this wardenship is established, and the claim to absolute jurisdiction, not merely at Madawaska, but over the whole territory north, is asserted and enforced.

If this jurisdiction is to be tolerated and acquiesced in indefinitely, we can easily see why negotiation lags, and two years elapse between a proposition and the reply. They have all they want, and the jurisdiction is claimed by them so absolutely that we cannot send an agent to number the people, and must hesitate before the disputed line can be run, to fix our limits and ascertain important facts.

The first duty of Maine, as it seems to me, is to claim the immediate action of the general government, to move efficiently and decidedly, to bring the controversy to a conclusion. We have had years of negotiation, and we are told that we are apparently no nearer to a termination than at the commencement. Maine has waited with most exemplary patience, until even her large stock is almost exhausted.

She has no disposition to embarrass the action of the General Government, but she asks that some action be had—some movement made with a determined purpose to end the controversy.

She cannot quietly submit to have her territory wrested from her, her citizens imprisoned, her territorial jurisdiction annihilated, and her rights lost by the bold and persevering and unopposed claims of a foreign power. She cannot consent to be left alone in the controversy, or to be left in doubt as to the aid or countenance she may receive from the authorities of the Union in maintaining her acknowledged rights. She asks the quiet and undisturbed possession of her territory, according to the treaty, and that foreign and intrusive possession be put an end to; and by this claim she will abide. She will do nothing

rashly, and indulge in no spirit of nullification; and it will not be until all hope of settling the vexed question by negotiation, and all requests for other aid are denied or neglected, that she will throw herself entirely upon her own resources, and maintain, unaided and alone, her just rights, in the determined spirit of injured freemen. But those rights must be vindicated and maintained; and if all appeals for aid and protection are in vain, and her constitutional rights are disregarded, forbearance may cease to be a virtue—and, in the language of the lamented Lincoln, Maine may be “compelled to deliberate on an alternative which will test the strictness of her principles and the firmness of her temper.” The recent movement in Congress by one of our Representatives—sustained, as we may confidently trust, by his colleagues, gives some encouragement to hope that the day for decisive action is at hand.

To you—delegated guardians of the people's rights—I submit these remarks, and to you I leave the consideration of this momentous subject, confident you will not yield to an unjust claim, or jeopardize our rights by delay in asserting them. It is for you to say upon mature reflection, whether, in speaking in the name of Maine, I have exceeded the bounds of prudence, or mistaken the feelings of the people. I confess that my convictions are strong that Maine has been wronged by a foreign government, and neglected by our own—and I do not understand the diplomatic art of softening the expression of unpalatable truths.

I can only assure you that I shall most cheerfully co-operate in maintaining our rights to protection in the exercise of our rightful jurisdiction.

The remains of the only deceased Governor of Maine, ENOCH LINCOLN, are deposited on the public grounds, “without a stone to mark the spot,” or to express respect for his memory. Although we, as a people, are in principle opposed to mere magnificent display or useless ornament, yet, under the peculiar circumstances of the case, some memorial, simple as his character and solid as his fame—erected by the State he served, and whose rights he maintained with honest zeal and

unskaken fidelity, and in whose service he died—would be but a meet testimonial to the memory of that honest man and faithful magistrate.

It is provided in the Constitution of the United States (Article 4, Sec. 3) that “no person held to service or labor in one State, under the laws thereof, escaping into another, shall, in consequence of any law or regulation therein, be discharged from such service or labor, but shall be delivered up on claim of the party to whom such service or labor may be due.”

However strongly we may disapprove the system here alluded to, and desire to see it abolished by legal and constitutional means, we are bound to carry this provision into full effect, in perfect good faith, and with a sincere desire to maintain and observe the provision of the compact. But the person claimed under this section, if a resident within our State, has clearly a right to demand that the fact alleged should be legally proved, before he shall be delivered up to the claimant.

The personal liberty of every man who treads our soil, and breathes our air, is sacred and not to be infringed, “but by judgment of his peers, or the law of the land.” A mere claim or informal production of alleged and apparently sufficient evidence, would not authorise the seizure or removal of inanimate property, by legal authority, and surely, the most friendless of human beings has a right to a legal trial, before his personal freedom is impaired by law. Some provision, by which a speedy trial in such cases could be had before a jury of the country, and the rights of claimants promptly and legally settled, seems to be called for by the exigency of the times, and I submit the matter to your consideration.

The many accidents and disasters which have occurred on water and land, in the use of vessels and carriages propelled by steam power, many, if not all, of which can be traced to the carelessness or incompetency of the men entrusted with their direction and management, call loudly for legislative interference. The regulation of vessels, when upon the high seas, belongs to the general government, and the calls of justice and humanity, demanding vigorous and decided action, we trust will not be

neglected by Congress. It is deserving your consideration, whether, in aid, or anticipation of such legislation, it may not be expedient for the States to act upon the subject, where it is exclusively within their jurisdiction, and provide for the punishment, as a criminal offender, of every master, engineer or person in charge, through whose carelessness or want of due attention, any person or persons shall be injured in steamboats or rail road cars,—and subjecting owners to heavy penalties, in case of such accidents, or for entrusting such vessels, or cars or engines, to the care or control of improper persons.

The public, from necessity, trust implicitly to the good faith and capacity of these men, and when the cupidity of gain, or the negligence of indifference, leads to fatal results, it is just to hold the authors of such evils amenable as criminal offenders.

The agricultural interest is one of great importance, and claims with justice the attention of the government. Although this interest is of paramount importance to our strength and independence, it is unquestionably true, that it has demanded and received less direct aid from legislation than any other. Our farmers have asked only to be protected in their lawful possessions, and the quiet enjoyment of their own rights. But it has long been apparent to the most superficial observer, that the agricultural resources of our State have never yet been fairly and fully tested; and that we need only the experiment to demonstrate, that Maine may become one of the first grain-growing States, and not merely supply enough for her own consumption, but export a large surplus.

Providence has in a great measure compensated for the coldness of our climate, and the shortness of our seasons, by the rapidity of vegetation, and we have only to learn to adapt our crops to the nature of our soil and climate, and we need not long suffer under the reproach of not raising our own bread. The law of last winter, giving a bounty on wheat was found satisfactory to the people, and the success which has attended the efforts of our farmers in raising wheat, has given great encouragement to them, and to all who have faith in our capacity to do yet more.

Although attempts to force unnatural products, or unprofitable crops, by means of bounties and rewards, are certainly unwise and unjust, yet when the object is only to demonstrate the utility and profit of a particular course of cultivation, and to induce our agriculturalists to put forth efforts to test our capacities, a bounty, temporary in its duration, and limited in its amount, may be found in the end the truest economy.

The returns from the several towns and plantations will be useful in exhibiting nearly the amount of wheat raised in this State the last year; and I submit to your consideration to whom the decision belongs, the expediency of continuing the same bounty another year, if upon investigation, the state of our finances will warrant it. The cost is great, but the benefit, in my view, is an ample equivalent.

The Judiciary, by the constitution, is made one of the separate departments of our government, and being immediately concerned in the administration of justice between conflicting claimants, and the punishment of individual offenders, and being that department to which is entrusted the enforcement of the provision of our constitution,—“that right and justice shall be administered freely and without sale, completely and without denial, promptly and without delay,” it is clearly of the first importance, that our judiciary should be so organized, that it may be able satisfactorily to discharge these high duties.

The system which was adopted at the first organization of our State, has been continued, with slight variations, to the present time.

The number of judges in each Court is the same as at the first institution, although our population, business and the number and duration of the terms of the Court have so materially increased.

From my own personal observation and the experience of others, I am satisfied that although our judges do devote themselves, with unwearied industry, to the discharge of their duties, it is impossible for the present number to perform all the duties of that department, without taxing their physical and mental powers beyond any reasonable requisition. The pres-

ent evils, it seems to me, result not so much from a defect in the system, as from the want of a sufficient number of judges to discharge the duties of the department.

I submit, however, the whole subject to your consideration, with the expression of my individual opinion. If any better system than the present can be devised, I shall most readily concur in its adoption.

It is certainly not the least remarkable of the many remarkable events of the last two years, that our national rulers have been called upon to act in reference both to an overflowing and an exhausted Treasury. A short time since, as we all remember, our legislators were devising schemes to avoid the evils of redundant means and useless receipts. The plan of dividing the surplus among the States, was proposed and adopted, in the form of a deposit, and the States received three parts of the promised deposit, when the financial difficulties and embarrassments into which we were plunged, were, in the opinion of a majority of Congress, sufficient to authorise them to disappoint the expectations, and frustrate the plans of the States, by postponing the payment of the fourth instalment until the year 1839. We may then expect to receive it, unless the embarrassments of the Treasury continue and increase, and the money is wanted to supply deficits or losses, incurred in our new financial schemes of keeping the public treasures.

The law of this State, passed last year, authorising a deposit of this surplus with the several towns and plantations, in proportion to their population, has given rise to much discussion relative to the justice and expediency of some of its provisions. The restriction of that law, "That any city, town or organized plantation is authorised to appropriate its portion of the surplus revenue, or any part thereof, for the same purposes that they have a right to any moneys accruing in the treasury from taxation," has been much opposed, and it is deserving of consideration, whether it ought not to be repealed. The use of that money for the ordinary expenses of a town, for the current year, in lieu of taxes, is to my mind, upon mature reflection, manifestly unjust, whether we regard the money as an absolute

or conditional deposit. The operation of such disposition of the money, is manifestly to divide it among the people in proportion to their property. If the usual taxes of a year are omitted in consequence of the receipt of this surplus money, each individual citizen, in fact, receives an amount equal to his annual tax. A distribution *per capita* is certainly more just than any other. Another plan, worthy of consideration, is, for each town to invest this money in a fund, the annual interest of which shall be appropriated to the support of primary schools, without releasing towns in any degree from their legal obligations, to raise the sum now required for their support. Such a disposition would secure, in a great degree, an equal division of the money. If, however, the restriction is repealed, the inhabitants of each town can decide for themselves, the question of appropriation.

The Geological survey of the State, which has been commenced and prosecuted with zeal and ability, promises useful and satisfactory results, in developing the resources and concealed treasures of our State. The report of the Geologist will be laid before you, and I confidently hope, that a work so honorable to our State, thus auspiciously commenced, will be vigorously prosecuted until it is fully completed.

The Insane Hospital, now in progress at Augusta, will be a noble monument to the liberality of the individual contributors, and the benevolence of our State authorities, who will thus secure to that unfortunate class of our fellow beings who are deprived of reason, a comfortable retreat, and kind and scientific attendance. Its interests are in your hands, where I am confident they will be duly regarded.

It cannot be expected that I should be able to lay before you many facts relative to the affairs of the State or its institutions, as I have had no official connection with them, and have no information except such as is common to the whole people. By the Report of the Commissioner of the Treasury, which has been laid before you, it clearly appears that the State is embarrassed in its financial concerns, and that we receive from our predecessors an exhausted and embarrassed treasury. The

balance against the Treasury, as reported by the Commissioner, is three hundred and fifty-six thousand five hundred and seventy-eight dollars and ninety-eight cents, of the present liabilities and resources; and the estimated receipts for the current year are one hundred and forty-eight thousand twenty-five dollars and nine cents, and the estimated expenses are four hundred and thirty-three thousand seven hundred and forty-two dollars and eighteen cents; leaving a balance against the Treasury of two hundred and eighty-five thousand seven hundred and seventeen dollars and nine cents, for the present year. The omission of the usual State tax, for the several years last past, has clearly been one cause of our present embarrassments. In the present pressure and difficulty in the community, it would seem to be unjust and oppressive, to attempt to meet *all* the demands by a direct tax upon the people the present year. I would suggest for your consideration, the expediency of authorizing a loan, at a rate of interest not exceeding five per cent., reimbursable in instalments, giving sufficient time for the State to ascertain and determine what amount of the large sum due and coming due to the State, on land notes, can be collected. In the meantime, experience is solemnly teaching States, as well as individuals, the necessity of strict and unflinching economy.

The poor debtor law requires revision and amendment, to secure to creditors their just rights, and to honest and unfortunate debtors an exemption from actual imprisonment for mere debt. A construction has been given to the existing law, in some sections of our State, which appears to me to defeat these important objects.

The interests of Education are by the constitution committed to you, and our Seminaries and Public Schools, those republican nurseries of freemen, must always find friends and advocates in patriotic and intelligent legislators.

The cause of Temperance and that philanthropic movement, which has already done so much to check the ravages of that fell destroyer of individual health and happiness, and that prolific source of crime and misery, Intemperance, depend mainly for their ultimate and perfect success, upon moral causes, but

may yet receive aid and support from legal enactments which shall put the seal of reprobation upon the traffic in ardent spirits, whenever public sentiment will sustain the strict enforcement of the provisions of such a statute.

In closing this communication, extended to a length which demands an apology, I can only assure you, and the good people of the State you represent, that I shall most readily concur in adopting such laws as the public good may require, and your judgment may sanction ; and that I shall bring to the performance of the untried duties of my station, honest intentions and faithful endeavors. And may that power which sustained our fathers in their days of trial and suffering, sustain us in the exercise of our delegated authority, to advance the best interests of our constituents and of our country.

EDWARD KENT.

COUNCIL CHAMBER, }
January 22, 1838. }