

MAINE STATE LEGISLATURE

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ACTS AND RESOLVES,

PASSED BY THE

TWENTIETH LEGISLATURE

OF THE

STATE OF MAINE,

JANUARY SESSION, 1840.

Published by the Secretary of State, agreeably to Resolves of June
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1840.

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

GENTLEMEN OF THE SENATE
AND HOUSE OF REPRESENTATIVES :

Assembling again for the discharge of the high trusts delegated to us by our fellow citizens, let us, while gratefully remembering past favors, look to the Dispenser of all good for a continuance of blessings, and for that wisdom, prudence and energy which should ever characterize the course of public servants.

In proceeding to the discharge of the duty enjoined by the Constitution of giving the Legislature information of the condition of the State, and recommending to their consideration such measures as may be judged expedient, permit me in the first place to call your attention to the condition of our finances, referring you, however, for particular and detailed information upon the subject, to the Report of the Treasurer.

It will be perceived that there has been a considerable augmentation within the past year, of the State debt. This, as you must be aware, has arisen from the extraordinary occurrences upon our northeastern frontier, and was provided for in the very liberal appropriations of the last Legislature. Whether the expenditure was a judicious and profitable one, regarding the whole affair, as a matter of mere dollars and cents, is a consideration that few, I

presume, will be disposed to entertain. The honor as well as interests of the State was involved; and the promptness, spirit and unanimity with which the case was met by the Legislature and by the people, was such, to say the least, as to command a warm and generous approval throughout the Union; and, may I not add, can never cause a regret in the bosom of any rightminded and truehearted citizen.

A large portion of the expenses incurred in the border difficulties during the last year, will undoubtedly be refunded by the General Government; provision for which, I trust, will be made at the present session of Congress. This sum, together with about ninety thousand dollars, the proportion belonging to this State, of "the Massachusetts claim," which, it is believed, has been allowed by the accounting officers of government, and is now awaiting an appropriation by Congress, will reduce the State debt to a small amount, and leave our financial affairs in an easy condition.

Though the difficulties in the way of procuring the State loan to be taken up abroad, have proved to be insurmountable, without paying an extravagant rate of interest, which I am persuaded would not have met your approval, the Treasurer, nevertheless, informs me that he has been able, by means of loans from the Banks and individuals of our own State, to pay promptly the interest on the public debt and to provide generally for the necessities of the Treasury, with the exception of monies due to the towns, and the temporary loans of the Banks. That something, however, should now be done to defray the expenses of government and to answer the legitimate calls upon the Treasury, beside borrowing, is manifest. Longer to depend upon this resource, would be as inconsistent with the true dignity of the State, as it would be impolitic in regard to ourselves and unjust to those who are to succeed us. I have, therefore, no hesitation in recommending a renewal of the State tax. This was suspended

at a time, when extravagant notions prevailed in regard to the value and anticipated income of the public lands, and is now generally admitted to have been a mistaken and unwise policy. Let us repair the error so far as we can. Let a State tax now be assessed for an amount sufficient, at least, to defray the expenses of government, and to pay the interest on the State debt, after it shall have been reduced as before suggested.

I am aware that an objection may be, as it heretofore has been, urged, that great changes have taken place since the valuation of 1830, and that therefore, a tax based upon that valuation would be unequal and unjust. A proposition for a tax may always be met with objections of this sort, in a young and rapidly growing State, and subject, as all property is, to constant fluctuation and change. Precise and perfect equality is at no time attainable. If you approach as near it as is practicable under existing circumstances, it is all that can reasonably be required of you. Our constituents, I am persuaded, will submit to it cheerfully. If they are too just to be unwilling to support a government instituted by themselves, and administered for their benefit, so are they too patriotic not to be willing to submit to far greater sacrifices than the assessment of this tax, unequal to some extent though it might be, when the good of the State requires it. Besides, is it not worthy of consideration, that if a tax based upon the last valuation would operate more favorably to one portion of the State than to others, it would be to the younger and newly settled portion; and this class of our population it has always been the policy of the State to foster and encourage. And still further, may not some offset for this inequality be found in the excess of representation in the Legislature which the older portions of the State enjoy over the younger.

The difficulty presented in this case, will very naturally suggest the expediency of avoiding it in future, by causing the valuation to be taken oftener than the periods now

fixed by law. Once in five, instead of once in ten years, it seems to me, would be preferable, while the State is rapidly advancing in wealth and population.

The appropriation for the Insane Hospital made at the last session of the Legislature being exhausted, the work has consequently been suspended. The cost of finishing the south wing and the centre, agreeably to the apparent design of the last Legislature, is estimated by the Superintendent, at five thousand four hundred dollars—and for finishing the north wing, three thousand six hundred dollars. If an appropriation be made for either object, another appropriation, perhaps, will be needed to furnish suitably the part thus completed, and to defray the expenses incident to getting the institution into operation. In this event, also, it will be necessary to make some provision for the appointment of officers, and to adopt some permanent system of government for the institution.

The omission to make an appropriation at the last session for a continuance of the geological survey of the State, I trust may be regarded rather as a temporary suspension of the survey, than a final abandonment of it. Aside from the public benefits anticipated from so trifling an expenditure, it would seem to be but just to those portions of the State, thus far neglected, that the survey should, at some time be resumed. The time of recommencement is not very important, and should of course be determined by the condition of the Treasury.

On the subject of the Militia, I do not propose to make any suggestions in addition to those contained in my message of January last. My views, then fully expressed, remain unchanged. Permit me, however, to refer you to some valuable suggestions upon this subject in the accompanying Report of the Adjutant General.

In regard also to the important interests of agriculture and education, I would respectfully refer you to my communication to the Legislature of last year, having nothing new to add upon these subjects.

I feel constrained to repeat a former recommendation

in regard to an additional Judge to the Supreme Judicial Court. The experience of another year has only tended to fortify and confirm the reasons then advanced.

The Commissioners appointed to revise the laws of the State, have, with the termination of the year, brought their arduous and important labors to a close. Their Report, which is before you, will undoubtedly receive that careful and laborious attention which its magnitude and deep interest to the State require.

The duty of practising a rigid economy at all times, is obvious; but especially is it incumbent on us in the present exhausted condition of the Treasury—and when the necessary supplies, for the present at least, must probably be obtained by a resort to taxation.

The Act of March 21, 1835, restraining the emission and circulation of bank bills of a small denomination was suspended for the period of two years by an Act passed March 8, 1838. The term of suspension being soon to expire, the subject will require your further consideration at the present session.

The subject of the currency is one of general and absorbing interest, and indeed may be said to affect, more or less, the business and interests of every man in the community. And however we may differ as to the best means of securing a sound currency, all will agree, that an unsound or unstable one, is a curse to any country in which it exists. How it has been in our own country we all know from bitter experience. The wonderfully rapid transitions from abundant plenty to extreme scarcity, that we have so frequently witnessed, producing a corresponding change in the value and prices of property, while they astound those who are uninitiated in the mysteries of banking, are ruinous to the regular business and pursuits of all. And what else can rationally be expected? When bank bills constitute the currency of a country, and it rests in the decision of a few individuals, who are not directly amenable to the public, and who are actuated by like motives and passions, and governed by like inter-

ests with other men, whether money shall be plenty or scarce, it would be unreasonable to expect to be exempt from constant if not ruinous fluctuations. I would not be unjust to banks any more than I would to individuals. If they have rights, let them be scrupulously respected. If they are under obligations let their performance be rigidly exacted. Without therefore, seeking to destroy, I would contend for such a regulation and control of them as to prevent, if possible, a recurrence of the evils alluded to. They should not have the power, as they now have, incidentally, by the natural operation and effect of banking, to exclude all specie from circulation and to force an entire, and often a depreciated, paper currency upon the community. A portion, at least, of the currency, should be beyond their control and emphatically in the hands of the people. Then notwithstanding a sudden contraction of loans and a reduction of their circulation by the banks, the community will not be left destitute of a circulating medium, nor the streams of business nearly dried up. One mode of effecting this, to some extent at least, is to prohibit the issue and circulation of bank bills of a small denomination. When these are withdrawn, the channels of circulation immediately become filled with silver and gold; and the circulation once established, continues and becomes permanent from the very nature of the case and the necessities of business. So far as my knowledge extends, this was the operation of the restraining law of 1835, and was only interrupted by the suspension of specie payments by the banks. Prior to that event there was no want of silver. The small bills disappeared and their place was supplied with specie, by a process so gentle that the change was scarcely perceptible while going on, and affected no interests in the community, not even those of the banks themselves, but for good. That such would be the effect again, under similar circumstances, I have no doubt. With these views, therefore, I cannot hesitate to recommend a renewed attempt, now or hereafter, as may be deemed best, to effect the design of the law

alluded to. No laws, however, can be effectually executed unless sustained by public opinion, especially one of this character. Whether therefore the present, is, or is not, the best time to attempt its revival—whether it should, at first, embrace so many bills of a small denomination—or whether all its provisions are judiciously adapted to the end proposed, are questions which your own experience, and the knowledge you bring with you from all parts of the State, of the views and wishes of the people, will enable you to decide satisfactorily.

In general I have not deemed it expedient in my communications to the Legislature, to discuss political questions, however important they might be, when they had no direct connexion with the business legitimately coming before you—and it is without an intended departure from this rule, that I allude, by way of fortifying the views just expressed, to the prospect that an important change is about to be effected in the financial operations of the General Government, and consequently, though indirectly, in the currency of the country. “The Independent Treasury system,” judging from the elections and other strong indications, after an opposition, able, long continued and fierce, seems, happily, to have received the approbation of the people, and is probably about to be adopted as the established policy of the country. This contemplates, by a gradual change from the present system, a payment of all dues to the National Government in silver and gold. The disbursements of the government being also to be made in the same currency, will infuse a larger portion of the precious metals into the circulating medium, and thus afford essential aid to those States disposed to restrain the issue and circulation of small bills, in carrying into effect laws enacted for that purpose. If, in addition to this, we consider, that our own banks will undoubtedly adhere to their honorable and commendable policy of maintaining specie payments, there can be no reason to doubt, that specie may be easily and abundantly obtained by the people to supply the place of small bills.

The long pending question in relation to our northeastern boundary, is still open and unadjusted, though we have reason, perhaps, for believing, that it has made some advances during the past year. We have had a renewed expression of opinion on the part of the General Government that the territory in dispute is *a part of the State of Maine*—an indication of a determination to discharge, in good faith, the duty of that government to this State, of maintaining the integrity of its territory—and a national sanction of the military demonstrations made by this State in February and March last. It is also well understood now by all parties, that however patient and forbearing Maine will be while honest and earnest attempts are being made to run the line and definitely settle the question, she will not submit longer to be deprived of her territory by such a system of vexatious and unjustifiable procrastination as has heretofore been practised; and that the question must be settled speedily, in some way or other, if hostilities would be avoided. This is gaining something. When parties are fully aware of the precise position they occupy, the next step taken by them will be taken understandingly, whatever else may be said of it. Again, the occurrences of last winter served to awaken the attention of the country to the momentous importance of the question, and to induce such an examination of it as to result in a strong and universal conviction, that the pretence of claim set up by Great Britain to the disputed territory, is palpably unfounded and unjust, and can be persevered in, only, through an utter disregard of the plain and unambiguous terms of the treaty of 1783.

Soon after the termination of your session in March last, a proposition was made by the British Government to the Government at Washington, for establishing a Commission for the purpose of exploration and survey, but it was connected with such limitations and conditions, as, it is understood, caused an immediate rejection of it by the President. After which, and believed to be as early as July last, a counter project was submitted to the British

Government, to which, as we learn by the late message of the President, no reply has yet been received.

Pending this negotiation, it seems, the British Government has deemed it expedient to make an exploration of the disputed territory by Commissioners sent out for that purpose—the alleged object being, to obtain topographical information, &c., as a means of promoting an early and just determination of the question in dispute. These Commissioners have completed the exploration and returned to England to report to their government. What that report is to be, or what is to be the effect of it, remains to be seen. The courtesy due from one government to another, requires us, perhaps, to believe, that the real and avowed design are the same, and that this survey has been undertaken really for the acquisition of information, and not for mere purposes of delay. At all events, a short time will determine. As the Commissioners may be expected to have reached England about the first of January, there will be ample time before the termination of your present session, supposing it to be of the usual length, for the British Government to avail itself of its additional information, and to communicate with the government of the United States, in reply to the counter proposition submitted many months ago. If such communication should not be made within the time anticipated, I think you may fairly regard the British Government as having returned to its old practice of procrastination, and will be justified in adopting more vigorous and determined measures than have ever heretofore been adopted, to secure to this State both her property and jurisdiction in her lawful territory; unless the necessity for such a course should be obviated by the action of the General Government. What those measures should be, may properly be left to future consideration. I need not say, that, in all your efforts to secure to Maine her just rights, you may depend upon my hearty co-operation.

In giving you information of the doings of this government in relation to the disputed territory since the adjourn-

ment of the Legislature in March last, permit me to refer to certain Resolves passed the twenty-third of that month. In one of them it is resolved as follows, to wit:—"that, when he [the Governor] shall be satisfied either by the declarations of the Lieutenant Governor of New Brunswick or otherwise, that the latter has abandoned all intention of occupying the territory with a military force, and of attempting the expulsion of our party—that, then, the exigency which called forth the militia having ceased, the Governor be, and he hereby is authorized to withdraw the same, leaving the Land Agent with a sufficient *posse*, armed or unarmed, as the case may require, to carry said Resolve into effect."

Soon after the adoption of this resolution I received the written assent of the Lieutenant Governor of New Brunswick to the following proposition made to him by Major General Scott, to wit;—"that, it is not the intention of the Lieutenant Governor of Her Britannic Majesty's Province of New Brunswick, under the expected renewal of negotiations between the Cabinets of London and Washington on the subject of the said disputed territory, without renewed instructions to that effect from his government, to seek to take military possession of that territory, or to seek by military force to expel the armed civil *posse* or the troops of Maine."

It appearing to me that the precise contingency contemplated by the Legislature had occurred, I could not hesitate to recall the troops. Any other course, it seemed to me, would be not only incurring needless expense, but disregarding the express directions of the Legislature. Nor was the step taken with any reluctance, as one, in the slightest degree, derogatory to the honor of the State. We had never attempted or professed to take military possession of the territory. A recurrence to the Resolves of the 24th of January and the 20th of February, will show, that the object was to arrest trespassers and protect our property from devastation; and of the last, particularly, to resist a threat of expulsion from the territory by the Lieutenant Governor of the Province of New Brunswick. The withdrawing the troops, therefore, was, in no sense, an abandonment of any position taken by this State. The

troops maintained their ground, while the exigency which called them out remained—when that ceased they retired. For a more detailed account of military operations, I refer you to the accompanying Report of the Adjutant General. I cannot, however, permit this opportunity to pass without saying that the militia called into service, both officers and privates, with but few exceptions, conducted in a manner, in the highest degree creditable to themselves and to the State.

In further compliance with the Resolve of the 23d of March, the Land Agent, with a sufficient armed *posse*, remained in the territory after the withdrawal of the troops. For a particular account of his proceedings, I must refer you to his Report herewith transmitted. It seems that during most of the time he has had in the service about two hundred men. That they have not been idle, will appear, I think, by looking at what they have accomplished. In addition to the labor expended in furnishing tolerably substantial fortifications erected upon the Aroostook, with two large block houses and similar buildings at the mouth of Fish river, they have made over one hundred miles of road through the heart of the wilderness—all of it being suitable for travelling with carriages and for the transportation of heavy loads. Booms have also been extended across the Aroostook and Fish rivers, of the most substantial character, and much valuable timber thereby saved. On the whole, though the expenses have been necessarily great, it is believed that the true interests of the State have been promoted by the course pursued by the Land Agent and those who have been associated with him.

Early in the fall, complaint was made to me that the Land Agent of Massachusetts was granting permits to persons residing in the Province of New Brunswick, and others, to cut timber upon lands contiguous to, and lying upon both sides of the Aroostook river. And it was represented, that if such practice was to be persevered in, it would be impossible to execute the laws and resolves of

the State in relation to the prevention of trespasses upon the public lands. The evils before experienced from this cause, and those apprehended, were represented as numerous; and among others, that these permits were used by many as a mere cover for depredations upon the lands of this State. Under these circumstances I felt constrained to address the Land Agent of this State, advising that the utmost rightful power should be exerted on his part, to counteract the designs of these persons;—and that he notify them, that if they persevered in their attempts, the Legislature would probably adopt some regulations in regard to the use of our public streams which would render the lumbering operations of but little avail to those engaged in them. The Land Agent conformed to this advice, and I am happy to state my belief, that no more permits were subsequently granted, and that most of the persons who had previously obtained permits, abandoned the design of operating under them. A few, however, did not, and whether any measures should be adopted in relation to them, carrying out the suggestion before made, it is for you to judge.

The views which I have presented in this communication upon the subject of the boundary, were those entertained independently of what is now an ascertained fact, to wit: that our territory is actually invaded, and of course are to be modified by that circumstance. Official information of that fact was received by me a few days since, while on my way to this place, in a reply of the Lieutenant Governor of the Province of New Brunswick to a letter of inquiry addressed to him by myself in relation to this subject. It is admitted that one or two companies of British troops have been stationed at Temiscouata lake, but it is alleged by the Lieutenant Governor to have been done, not by his own orders, but by the authorities of Lower Canada. This movement, I cannot but regard, under whatever branch of British authority, or on whatever pretence it may have been made, not only as a violation of the spirit of the arrangement agreed upon in March

last, but as clearly an invasion of our territory. Under these circumstances I deemed it to be my duty immediately to communicate the facts to the President of the United States, with other, though less official information received, of the building of barracks by the British Government on both sides of the St. John's, near the mouth of Madawaska river, which I did, calling officially for that action on the part of the General Government which the case required and the Constitution and laws of the United States clearly enjoined. A copy of this communication to the President, and of the correspondence between the Lieutenant Governor of New Brunswick and myself are herewith laid before you.

I ought not, perhaps, to close this communication without adverting to a difficulty between the State of Georgia and this State, growing out of a demand, made by the late Governor of Georgia upon Governors Dunlap and Kent, to deliver up two citizens charged with the abduction of a slave from that State, and which persons, it was alleged had fled from justice ; and the refusal to deliver them up upon grounds deemed by the then Governors of this State to be constitutional and satisfactory. The proceedings of the Legislature of Georgia having been, at the request of the Governor of that State, laid before the Legislature of this State, and the latter having taken no action thereon, referring the whole matter to the Executive, the Governor of Georgia thereupon in his message to the Legislature holds the following language :

“The conduct of the Legislature of Maine and the
 “previous conduct of Governor Dunlap and Governor
 “Kent, prove conclusively, that the opposition to the
 “institution of slavery is so great among the people of
 “that State, that their public authorities are prevented
 “from obeying the injunctions of the Constitution of the
 “United States, when required to deliver up fugitives from
 “justice charged with the crime of violating the rights of
 “property in slaves. This State must therefore protect
 “by its own authority, the rights of its citizens in slave
 “property, against the disposition of the people of Maine
 “to violate them. For this purpose you will be justified

“in declaring by law, that all citizens of Maine who may come within the jurisdiction of this State, on board of any vessels, as owners, officers, or mariners, shall be considered as doing so with the intent to commit the crime of seducing negro slaves from their owners, and be dealt with accordingly by the officers of justice.”

Coming to us in a less official character, but few, I think, would regard this proposition as serious. Be that, however, as it may, if there was the least probability that such a measure could succeed in the Legislature of Georgia, some counter action on our part might, perhaps, be necessary. But I am sure it can never prevail. The proposition so clearly violates the Constitution of the United States, and is so subversive, not only of the plainest principles of law, but of common sense and common justice, that the intelligent Legislature of that distinguished and gallant State will never sanction it. The late Governor of Georgia and my predecessors, though not agreeing in their construction of the Constitution in regard to the relative rights and obligations of the States, yet differ, principally, upon a question of a fact, to wit: whether the persons demanded, were or were not fugitives from justice. For the decision of this question the Constitution has established no tribunal; and Maine, in claiming an *equal right* with Georgia, to examine and determine it, believes that she is not only not violating the Constitution, but is planting herself upon the great doctrine of State rights. Upon a question of this sort, then, where there is found to exist an honest difference of opinion, sure it would be worse than folly to array the citizens of the respective States in hostile attitude, and to regard large classes of the citizens, indiscriminately, of one State, as only bent on the commission of crime when entering the territory of the other. There is no reason why Maine and Georgia, though widely separated upon the map of the country, should not be nearly allied in mutual respect, interest and kind offices. The state of public feeling in Maine has been entirely misconceived by the late Governor of Georgia. If there are any among us who are dis-

posed to interfere with the domestic institutions of Georgia, or any other State, in violation of law, or who are disposed to obstruct the public authorities in the strictest performance of the constitutional obligation to deliver up fugitives from justice, be the offence what it may, the number is extremely limited. I am persuaded that the present apparent feeling in our sister State, will soon yield to juster views; and that no root of bitterness will be permitted to spring up between the two States, tending permanently to affect the peaceful and friendly relations that ought ever to subsist between the different members of our great confederacy, and which, I am confident, the citizens of this State are disposed assiduously and sincerely to cultivate.

I shall communicate with you further, by special message, as circumstances may require, during the progress of the session—a session, which I hope may prove to be both pleasant to yourselves and abundantly promotive of the best interests of the State.

JOHN FAIRFIELD.

COUNCIL CHAMBER, }
January 3, 1840. }

To the Senate and House of Representatives :

The Inspectors of the State Prison having made their Report to this Department, a copy of the same is herewith laid before you.

EXECUTIVE DEPARTMENT, } JOHN FAIRFIELD.
January 13, 1840. }

To the Senate and House of Representatives :

I herewith lay before you a communication from Daniel Brent, Esq. United States Consul at Paris, with the project of a law providing for the acknowledgment of deeds of conveyance of real estate and other property situate in this State, by persons residing abroad. The necessity for