

MAINE STATE LEGISLATURE

The following document is provided by the
LAW AND LEGISLATIVE DIGITAL LIBRARY
at the Maine State Law and Legislative Reference Library
<http://legislature.maine.gov/lawlib>



Reproduced from scanned originals with text recognition applied
(searchable text may contain some errors and/or omissions)

ACTS AND RESOLVES

PASSED BY THE

TWENTY-FOURTH LEGISLATURE

OF THE

S T A T E O F M A I N E ,

A. D. 1844.

Published by the Secretary of State, agreeably to Resolves of June 28, 1820, February 26, 1840, and March 16, 1842.

AUGUSTA:

W^M R. SMITH & Co., PRINTERS TO THE STATE.

1844.

RESOLVES

OF THE

STATE OF MAINE,

1844.

The committee on state lands, to whom was referred so much of the correspondence between the executive of the State of Maine and the executive department of war of the United States, as relates to the withdrawal from Fort Kent the troops of the United States heretofore stationed at that post, have had the same under consideration, and ask leave to submit the following

REPORT.

The principal facts, which exhibit the propriety of the maintenance of a military force at Fort Kent by the United States, are set forth in a communication addressed to governor Kavanagh on the second day of October last, by Hon. Philip Eastman and others, commissioners for locating grants and possessory claims under the treaty of Washington, who had spent a considerable portion of the previous season on the river St. John, and in the vicinity of Fort Kent, and who had a good opportunity to become acquainted with the situation of affairs in that section of the state. It appears from that communication, that the settlements on the American side of the St. John, extend fifty miles continuously from Fort Kent to the easterly line of the state, on the margin of the St. John, and westwardly from Fort Kent to the mouth of Little Black river, a distance of thirty-five miles, with some few interruptions.

This entire settlement is separated from the other settled portions of Maine by an unbroken forest varying in breadth from thirty to sixty miles. The inhabitants of this settlement are principally Acadian and Canadian French, with the addition of a few Irishmen and provincial Englishmen, and still fewer Americans. They are generally unacquainted with our laws and customs, and even with our language, and cannot read or write. They have lived heretofore under British laws, and their business intercourse has been wholly with New Brunswick and Canada. Under such circumstances it is obvious that they cannot be relied upon to render any efficient assistance in the enforcement of our laws.

A road has been cut from Masardis to Fort Kent, a distance of fifty-seven miles. It is, however, impassable in summer, except for persons on foot or horseback, and it is unavailable in winter in consequence of the loss of the bridge over Fish river. Another road from Letter G, on the Aroostook, to a point on the St. John thirty-five miles below Fort Kent, was cut during the past season. Both roads extend through an unbroken forest, and there will not be sufficient intercourse upon either of them to keep them open in the winter season. And even if they were kept open, the settlements at Masardis and on the Aroostook, are too distant, scattered and feeble, to render any effective assistance to the settlements on the St. John.

A deputy collector of the customs has been stationed at Fort Kent, but he must be manifestly unable to execute his functions without the

CHAP. 278.

support of a military force. Civil officers attempting to execute precepts under the authority of the state, must be exposed to resistance without the means successfully to encounter it.

Maine and Massachusetts own large tracts of timber land exposed to pillage, on the west side of the St. Francis, on the Great and Little Black rivers, on the Allagash, and on the St. John and its southern branches. The number of men encamped on the British side of the line, engaged in cutting lumber, and sufficiently near to have every opportunity to deplete upon our timber, is estimated to be nearly four hundred. These men are reckless and lawless in character, and nothing short of a military force can protect citizens and property of the state from their criminal enterprises.

The correctness of the facts stated by the commissioners to locate grants under the treaty of Washington, and of the conclusions deduced by them therefrom, are supported by the concurring representations of the land agent of Maine, of Capt. Wm. P. Parrott, who was employed by Maine and Massachusetts during the summer of 1843, in surveying their undivided lands south of the St. John, and of a meeting of highly respectable citizens of Bangor, a memorial from whom was transmitted to the secretary of war on the 20th day of September last.

From a letter addressed to Gov. Kavanagh on the 30th day of November last by the secretary of war, it appears that the subject of the withdrawal of the troops of the United States from Fort Kent, had been previously referred to major general Scott of the United States army. Gen. Scott's report thereon was made on the 25th day of September last, and is as follows :

“ The posts of Fort Kent and Fairfield were garrisoned by United States troops during the excitement about the disputed territory, on my recommendation, in order to vindicate the claim of jurisdiction on the part of the United States, and to save expense to the State of Maine.

The boundary question having been definitively settled by the treaty of Washington, and a year allowed for the restoration of tranquility along the border, the garrisons of those forts were withdrawn on my recommendation, for the following *military* reasons :

1. The troops were wanted on the seaboard for the preservation of important works.
2. There was nothing of that nature either on the Aroostook or Fish river worth a garrison.
3. We had not troops enough both for important public works and those of no military value.
4. Fort Fairfield and Kent were distant and difficult to supply, except at great expense, and the latter fort could not be maintained except at the cost of a road and bridges, which Capt. Webster (the commander) called for as indispensable.

For those reasons I asked and obtained permission to withdraw the

troops in question, leaving four companies at Hancock barracks (Houlton) to meet any border exigency that might occur higher up that frontier. From that post (Houlton) it will be more easy and less expensive on the snow or in summer to make detachments on the suggestion of the authorities of Maine, to maintain her laws and police regulations.

Respectfully submitted,

(Signed)

WINFIELD SCOTT."

The secretary of war in his before mentioned letter of the 30th of November last, enclosing the foregoing report to governor Kavanagh, says: —

"It is not enough that the interests of the state might be promoted by the troops remaining at those posts. That, in itself, could not be the contingency for which they would be required to occupy any post. There should always be good military reasons existing for the station of troops. But could we dispense with this, there are objections growing out of local causes, which, except in cases of absolute necessity, would forbid the re-occupation of those posts.

The subsistence of troops would be very expensive. The government would be involved in the cost of constructing a military road from Houlton, and erecting bridges upon it at an enormous charge; and there is no general object calling for the action of our military force that would in any way justify such expenditures.

I do not think under ordinary circumstances, the troops of the United States should be called upon to perform the police duty of guarding the property of a state or of individuals from expected trespasses, nor to aid in enforcing instruction to an ignorant and uninformed portion of the population.

It is for these purposes that we are asked to order back the troops, and they do not appear to be objects which under the circumstances, would authorize the constituted authorities of the union to order a military force any where."

The committee do not deem it necessary to comment upon the extraordinary tone and temper assumed by the secretary of war. That duty has already been performed by governor Kavanagh, in a manner befitting the dignity of the state, and it now only remains to consider the sufficiency of the reasons alleged, for the refusal to re-occupy Fort Kent by a military force of the United States.

It was never pretended by the authorities of Maine, that there were any "important public works" at Fort Kent, which required a force for their security and preservation, nor have they ever denied, or attempted to conceal, that it is a post "distant and difficult to supply." Neither have they forgotten that the military force of the United States is small, that the positions demanding its presence are numerous, and that strong and adequate reasons were necessary to justify their request for the re-occupation of Fort Kent by the force of forty men previously stationed there. Such reasons, as they may well insist,

exist, and were furnished by them. They may not be "*military reasons*," within the scientific meaning attached to those terms by the commanding general of the United States army, but they are certainly valid and sufficient reasons, and most clearly pertinent to the proposed employment of a portion of the military force of the United States.

General Scott, in his last annual report to the secretary of war, spoke in terms of deserved praise and of evident complacency, of a recent and well known case of interposition by the force of the United States at Fort Kent, by means of which the laws of our country were maintained "*against the violation of the liberty of one of our citizens.*" He seems to have forgotten, that the spirit which animated those "*violations*," is still in full life and vigor, and that the abandonment of Fort Kent has freed them from all restraint whatever.

The post at Houlton is distant one hundred and twenty miles from Fort Kent by the nearest route. The distance and the difficulties of communication combined, render that post utterly valueless, as to any purposes of affording protection to the long line of settlements on the St. John. All the mischiefs apprehended from their defenceless condition, could be easily consummated, before any information of them could be communicated to Houlton.

If the commanding general of the United States army has partially misapprehended the merits of the question referred to him, the secretary of war has equally misapprehended the reasons presented by the authorities of Maine for the request which it became their duty to urge.

They never asked the re-occupation of Fort Kent "*to aid in enforcing instruction to an ignorant and uninformed portion of the population*" under their care.

They referred to the character of that population only for the legitimate and proper purpose of showing that it could not be relied upon to assist in the enforcement of our laws and jurisdiction.

It was not merely "to perform police duty" nor to guard the property of the state from ordinary depredation by plunderers within her own borders, that she asked the aid of the general government. For such purposes her own civil force is abundantly adequate. It was against powerful and armed bands of foreign marauders, encamped upon a weak and defenceless border, that she invoked the interposition of the military force of the Union. And finally, the re-occupation of Fort Kent was never asked, simply on the ground that "*the interests of the state*" would be promoted thereby, but because that measure was demanded by "*interests*" falling clearly within the constitutional obligations of the general government.

This is the high and legitimate ground which Maine occupies, which she will never suffer to be misrepresented by a blundering functionary at Washington, and from which no insulting denial of justice shall deter her.

The commanding general of the U. S. army, in his last annual re-

port to the secretary of war, says, that five regiments, in addition to the four or five already placed there, are necessary to afford "*reasonable security*" to the western frontier. If the presence of Indian tribes in that quarter, and other circumstances existing there, do in fact render such a measure necessary, Maine will contribute her proportion of its expense, with cheerfulness and promptitude. Much as she has suffered from the neglect of the Union, and compelled as she has been, in consequence of that neglect, to become an unwilling party to the dismemberment of her own territory, she will still be true to the instincts of patriotism.

Her representatives will vote regiments without stint, for the west, the north, the south, or wherever the honor of the country demands efforts and sacrifices. For herself, she now asks the small force of forty men, to protect her citizens from the threatened invasion of ten times that number of lawless foreigners. If she is refused, it will not be the first time that she "*has not been treated as she has endeavored to deserve.*"

In view of the facts and circumstances before stated, the committee recommend the passage of the following resolves.

HENRY W. CUNNINGHAM, *Chairman.*

Chapter 278.

Resolves relative to the re-occupation of Fort Kent.

Resolved, That the occupation of Fort Kent, on the Fish river, by a detachment of the United States' troops, is necessary to the protection of the citizens and property of Maine, against foreign aggression.

Relative to the military occupation of Fort Kent.

Resolved, That the governor be requested to communicate a copy of this report and these resolves to the president of the United States.

[*Approved March 16, 1844.*]

Chapter 279.

Resolve for furnishing cities, towns and plantations, with certain executive proclamations.

Resolved, That the secretary of state cause to be printed, and distributed to the several cities, towns and plantations in this state, organized for the payment of taxes, such a number of all executive proclamations for days of public thanksgiving and praise, and for humiliation, fasting and prayer, as he shall deem necessary; and that he cause such proclamations to be properly enclosed in wrappers, and forwarded by mail to the clerks of the several cities,

Secretary of state to distribute to the several towns and plantations certain executive blanks.