

MAINE STATE LEGISLATURE

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ACTS AND RESOLVES

PASSED BY THE

THIRTY-SECOND LEGISLATURE

OF THE

STATE OF MAINE,

A. D. 1853.

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1853.

GOVERNOR CROSBY'S ADDRESS.

Gentlemen of the Senate and House of Representatives :

THE constitution which we have sworn to support, and which we are under equally solemn obligations to preserve inviolate, in its division of powers and duties, contemplates that the executive and legislative departments of government may, by the force of circumstances, be placed in an antagonistic position. While it invests the legislature with authority to enact laws for the government of the people, it does not require obedience to those laws until they have received the sanction of the executive. But it is too late to call in question the wisdom of a provision so apparently in conflict with the genius of a democratic government—which makes the will of one paramount to that of the many. It is to be accepted in all its efficacy, and the duties it devolves upon us are to be discharged faithfully, conscientiously, and fearlessly.

The peculiar circumstances under which I am called, by your voice, to the chief magistracy of the state, must constitute my apology for this public expression of the earnest hope I cherish, that, however discordant our views may be upon the questions heretofore at issue between the great political parties of the nation, our councils and acts here may be in harmony. In the preservation of the rights of the people of this state, in the general welfare, we have a common interest. The preservation of those rights and the promotion of that welfare, constitute the legitimate purpose for which you are assembled; and whatever measures you may adopt for the furtherance of those objects, and in accordance with the spirit of the constitution, will meet, as they will deserve, my hearty approval.

In entering upon a new year, it may not be inappropriate to call to mind, for a few moments, the year which is passed. It has been an eventful one in the history of our own state, of the union, and the civilized world. It will be remembered as the year in which, for the first time in the nineteenth century, with a strong will, the strong arm of a sovereign state was stretched forth in the work of moral reform,—to arrest, in its midway career, the progress of the moral pestilence, intemperance. Other laws have been enacted in this and other states, whose object and tendency were to impede its progress, or confine it

within certain defined limits ; but it remained for the State of Maine to erect, by legislative enactments, which, in the hope and faith of those who framed them, could be neither avoided nor evaded, a barrier beyond which it was not to pass. I do not propose to discuss the merits of that legislation. I only allude to it as an event in the history of the state, and the union. That it has been productive of evil as well as good, is what may be predicated of all human legislation. That it has enlisted ardent friends in its support,—that it has met with stong opposition,—that it has been made the instrument, in the hands of warm-hearted, philanthropic men, for the redemption of the degraded, the temporal salvation of the almost lost,—that it has been a moral firebrand in the hands of the fanatic,—that it has been prostituted to the base purposes of the demagogue, are as much matters of authentic history as the existence of the law itself.

You are aware that some of the provisions contained in the law in question have been made the subject of examination and adjudication in two of our sister states, and in courts whose judicial opinions are of high authority. If the principles recognized by those courts are to be adopted by the courts of law in our own state—and there is reason for the belief that under a similar state of facts they will be—and applied as the rule of construction to our own statute, those features which have been regarded as being in conflict with the constitution, and therefore objectionable, have become still more so. In such a contingency, the objection should come from the friends of the law, rather than its opponents. If it be true that the material provisions, those which are its distinctive characteristics, which constitute its vitality, are in conflict with the constitution, and therefore cannot be enforced, the law, so far as the attainment of its proposed object is concerned, has become inoperative. That the people of the state demand a law sufficiently stringent to close effectually every haunt of intemperance within its borders is undeniably true ; but a statute whose provisions cannot be enforced in courts of law, although even sustained by the moral sentiment of the people, is a dead letter upon the statute book. Under such a state of facts it obviously becomes the duty of all who would promote the cause of temperance, so far as it can be promoted by legislation, to adopt that course which will, with the least delay, settle at once and forever the questions which are already beginning to embarrass the execution of the law, and the still more important question, whether the law of the land and public sentiment are in harmony. The judiciary department of government is the source to which the constitution directs you for light, and to my mind it is the dictate of wisdom to follow that direction.

I am not aware that any further legislation upon the subject is contemplated. If it is, I can only invite you to give it the calm and deliberate consideration to which a subject matter of such magnitude, involving principles so important and consequences so momentous,—the moral welfare and civil rights of the people,—is entitled. But I

would here, as elsewhere, in the name of humanity, forbid the bans between temperance and religious sect or political party.

The past year has witnessed the recurrence of an event which under less highly favored forms of government often shakes the social fabric to its centre, but with us is little more than a national holiday. I refer to the election of their chief magistrate by the free suffrages of the people of these United States. Although unattended by any circumstances other than those ordinarily connected with it, it is an event which we, as New England men, without distinction of party, may be permitted to note with peculiar pride. During the sixty-four years which have elapsed since the organization of our general government, New England, liberally as she contributed in blood and treasure to the establishment of our independence—rich as she ever has been in moral and intellectual worth, in patriotic and unwavering devotion to the union, has been represented but eight years in the person of the chief magistrate. The election at this time of a New England man to this high position by the almost unanimous voice of the states as uttered through their several electoral colleges, following as it does close upon that crisis in which sectional partialities and prejudices, arraying the south against the north, threatened the dismemberment of the union, may be hailed as an auspicious omen. It is an event which may well give courage to the faint hearted—crush the treasonable hopes and schemes of the agitator and disunionist of this generation at least, and strengthen the faith of all in the perpetuity of the union. It is an event in the occurrence of which we as men of New England and of the union, forgetting all party predilections, may well exult.

But in the midst of our exultation comes the saddening recollection that the same year which witnessed the elevation to the highest place within the gift of the people of one of New England's sons, witnessed also the termination of the earthly career of another and a greater. But this is neither the time nor place to eulogize the man whose loss the nation deploras. All that was mortal of DANIEL WEBSTER belongs to New England—his fame to the world—his memory to the coming centuries.

With the past year, which records the termination of the earthly existence of many of the most highly gifted among men, terminated the brief political existence of a sister republic in another hemisphere. The empire sits enthroned upon the grave of the republic—and the last hope for *republican* France is perished. The event, which is calculated to excite a mingled emotion of joy and regret, should arouse us to renewed vigilance in the preservation of our own liberties. It should awaken in our hearts emotions of gratitude that we as a nation have passed safely through the fiery trials to which we have been from time to time subjected—and the disturbing elements which menaced the integrity of the union have been removed. It should warn us to guard with a jealous care against any and every assumption of politi-

cal power, to resist the slightest attempt at encroachment upon the rights reserved to the states and guaranteed to the people by the constitution—and at the same time appeals to us to abide by our faith, and thus, in the spirit of mutual forbearance and conciliation, to strengthen the bands which unite these independent sovereignties in one harmonious confederacy.

The time which has elapsed since I was called to the official position I now occupy has been too brief to admit of any personal examination of the condition of the treasury, and I must therefore refer you for all such information as you may desire upon the subject, to the annual report from that department. The same remark will apply to the annual reports from the other departments of state, all of which will be laid before you.

Although from a perusal of that report it is very apparent that the available resources of the state are amply adequate to meet its responsibilities, it is still none the less incumbent upon those who are primarily entrusted with the appropriation of its funds, to practice all the economy which the interests of the people demand, and which is in harmony with our form of government. A government splendid only in the magnificence of its expenditures, is not such an one as the founders of this union and the several states composing it contemplated. To their apprehension, as it should be to ours, the true grandeur of a state consists in the worth, intelligence and patriotism of the people, and in the stern devotion to duty and incorruptible integrity of their rulers. I am aware that the executive recommendation of economy in the administration of the affairs of the state has become somewhat stale, although, I hope, not altogether unprofitable. If it has failed of producing the desired effect, the failure is not attributable, in my judgment, to any want of recognition of the existence of the obligation or the soundness of the proposition. I invite you to a scrutinizing examination of the state expenditures, and retrenchment wherever it can be judiciously made; yet would not have your economy degenerate to parsimony. The compensation paid by the people to their servants should be such as will command the services of the most competent. The institution or object which is deserving the bounty of the state, should receive it in such measure as will not merely sustain vitality, but furnish it with the means of a vigorous growth.

The expense attending the annual sessions of the legislature has been for some time the subject of remark and complaint. Upon this topic I believe there is, on the part of the people, an increasing sensitiveness. The argument that the advancing prosperity of the state, the multiplied enterprises of its people, and the wants of its rapidly increasing population, create the necessity for longer sessions and a greater amount of legislation, has failed to give entire satisfaction to the public mind. Comparisons instituted between the legislative sessions of our own and other states far exceeding ours in population,

wealth and enterprise, have strengthened the conviction that far less time than is now consumed in transacting the business before the legislature would be sufficient for all the legislative wants of the people. There is a growing disposition to remedy the evil of long sessions, by an amendment of the constitution. Legislators, it is said, manifest no disposition to apply the remedy which they certainly have in their power, and the people must take the matter into their own hands. There is good cause for the complaint, and good reason for a resort to the ultimate tribunal, if it be a fact that legislators are remiss in the performance of the duties they owe to their constituents. But it may be somewhat questionable whether they are so remiss, and whether the fault is not in a very great degree attributable to the propensity for law making on the part of the people themselves. Were the time and attention of the legislature occupied only in the consideration of really important matters,—were they but relieved from an examination of the multifarious projects which are annually brought before them—many of them chimerical, still more of them the offspring of prolific brains which are perpetually seeking out evils which, to their apprehension, can be remedied only by the panacea of legislation—their sessions would be comparatively short. Your action may contribute largely towards satisfying the people that sessions of the legislature are not protracted for the gratification of its members, and that the necessity for resort to an amendment of the constitution does not exist.

“The world is governed too much.” In other words, the people are legislated for too much. The laws requisite for the good government of the people, to be thoroughly understood and obeyed, should be few and simple. I know of no greater obstacle to the administration of justice than the perpetual change and revision of statutory enactments. That they are the prolific source of litigation, which I regard as one of the greatest evils incident to civilized society, the proceedings in our halls of justice furnish abundant testimony. A personal experience and observation for a quarter of a century have so forcibly impressed this conviction upon my mind that I feel it to be my duty to urge upon your consideration the benefits which cannot fail to result from a forbearance to enact more laws, or laws materially changing those now upon the statute book, unless imperiously demanded by the necessities of the people.

The requirements made upon the time and attention of the legislature by applications for that which is usually denominated special legislation, have to some considerable extent tended to prolong their sessions. The right of petition is guaranteed to the people by the constitution. The evil alluded to results, not from the exercise of that right, but from the mode in which it is exercised. Successive legislatures have attempted to apply a remedy by the passage of *rules* limiting the time within which applications of this character should be received. But the as often repeated suspension of those rules to meet particular cases, the only distinguishing feature in which was ignorance of the existence

of any such rules, furnishes conclusive evidence that the remedy has proved wholly inadequate, and may well suggest to you the expediency of making it more effectual by the enactment of a general law upon the subject.

Protracted sessions of the legislature have been attributable in no slight degree to the introduction and discussion of matters not legitimately within its province. The appropriate business of a state legislature is to legislate for the people of the state, and provide ways and means for meeting the expenses necessary in carrying on the government. It may, it is true, resolve itself into a "committee of the whole on the state of the union," it may discuss the expediency of the annexation of Cuba or the Canadas, it may moralize upon the subject of slavery, or philosophize on the right and duty of national intervention, and by so doing convert itself into a safety valve for the escape of a large amount of pent up eloquence, morbid philanthropy and wordy patriotism, but it thereby subjects itself to the imputation of squandering time and money which belong to the people. The results at which it arrives, are at best, but the expression of the opinion entertained by a majority of the individuals who compose it, not of the people at large. Common sense, as well as the common law, recognizes the correctness of the well established maxim, that the principal is not bound by the act of his agent when he exceeds his authority. You are, however, your own masters,—accountable only to the people,—and it is not for the executive to undertake the exercise of any control over your deliberations. It will, however, be to me a source of satisfaction to feel, when the labors of your present session are concluded, that the only legislative body I ever addressed, or ever expect to address, was marked by its fidelity to the trust committed to it—by the devotion of its time and talents to the objects for which it was convened, and was, emphatically, a *working* rather than a *talking* legislature.

The complaint has been for some time prevalent in different parts of the state, that the pecuniary burthens imposed upon the people by proceedings before the courts of county commissioners, have become unnecessarily onerous. To what extent the complaint is well founded, you, from your own personal observation, are competent to decide. If there is any cause for the complaint, it is not to be found in the amount of compensation allowed to those officers for their services, but to the abuse of the privileges afforded by the laws creating and defining the jurisdiction of the tribunal. I entertain the opinion that the principal cause for complaint may be removed by imposing restrictions upon the almost unlimited right to apply to the court for the location and discontinuance of highways, divesting the court of some of the discretionary authority which it now possesses, imposing further liabilities upon petitioners as a preliminary requisite to a hearing, and making the enforcement of those liabilities the peremptory duty of the prosecuting officer for the state in the several counties. The tendency

of such enactments as I contemplate would inevitably be to diminish the number of frivolous and groundless applications, or relieve the community at large from the expenses attending them.

A transfer of the duties and jurisdiction of this court to the supreme court, and a return to the old system under which the laying out and discontinuance of highways were referred to a committee appointed by the court, with appropriate restrictions as to costs, have been proposed. The expediency of such a change must depend upon the result to which an examination of the comparative expense under the old system and the new may lead you. If the effect will be, as it is contended, a large retrenchment in county expenses, I am not aware of any valid objection to the change. The investigation of the matter may suggest to your minds other modes for the attainment of the object I have in view in calling your attention to the subject.

The development of the natural resources of a state may well engage the attention and enlist the earnest effort of all its citizens, in every condition and calling, but should be peculiarly the object of your care. The increasing necessity for greater effort in this direction, on the part of the people and their representatives, is daily becoming more apparent. The recent discovery of the immense mineral wealth of California has aroused and quickened the spirit of adventure in the young and enterprising portion of our population, and yielding to its impulse, they are going out from among us by hundreds and thousands. The process continued would soon exhaust the vigor of the body politic. Fortunately, however, the spirit of adventure has not yet become one with the spirit of emigration. California itself offers but few inducements as a permanent residence to the New England emigrant, but points the way to a milder climate, and fields laden with a richer harvest than he left at home; and thither will inclination and interest lead him. This is the evil against which we have to contend, and for which we should endeavor to provide a remedy. We can find none effectual, but by making it for the interest of the returning adventurer to remain with us. We must open for him here, at home, new fields for enterprise. We must present to him the favorable opportunity of securing for himself here, by the aid of his own energies, the independent competence which he would seek elsewhere—the encouragement, which always operates as a stimulus to labor, of an adequate compensation.

In what mode can the state in its sovereign capacity, contribute to the accomplishment of this object? I answer, by developing its natural resources; by making apparent to the minds of the people the fact, which is not yet thoroughly appreciated, that it has upon and beneath its surface rich sources of wealth; by adopting a wise and liberal policy which shall invite and induce the investment of capital in the various departments of manual and mechanical labor, with the pledged faith of the state that rights acquired under that policy shall be respected and protected; by enlarging its bounty on successful indus-

try in agriculture and the various branches of labor connected with it; by opening thoroughfares through its public lands, thereby making their wealth accessible; by relieving the hardy pioneer who forces his way into the yet unbroken forests, from a portion of the burthen which he is compelled to bear equally with his more highly favored fellow-citizens, and for which he receives, as compared with them, but an inadequate return; by tendering its lands to those who will enter upon and occupy and improve them, at such prices and upon such terms as will place them within the reach of all her people. The acquisition in that mode of one intelligent, industrious citizen is worth more to the state than the richest hundred acre lot of wild land in all her wide domain.

These few suggestions may serve to induce reflection, and call your attention to a subject which I regard of paramount importance to the welfare of the state, and which I commend to your careful consideration.

In this connection, allow me to recommend to you the appropriation of a sum of money sufficient to complete the geological survey of the state, which was commenced some years since, and, unfortunately for the pecuniary interests of the state, prematurely suspended. Although the exterior indications do not authorize the belief that deposits of gold or silver are buried beneath the surface of our soil, they are such as to satisfy the minds of scientific geologists that Maine possesses an abundant mineral wealth, of a character less attractive to the mere treasure-hunter, but no less adapted to meet some of the various wants of civilized society. But it is not merely for the discovery of mineral localities that I would recommend the completion of the survey. I regard as of still greater importance the influence it would exert upon our agricultural interests. The wealth upon its surface is of as great value as that which lies undiscovered beneath; but it must continue to be equally unproductive until developed by the aid of scientific analysis, as well as by practical experiment.

At the last session of the legislature an act was passed creating a state board of agriculture. By the provisions of that act the members of the board are to meet at this place during the present month, and the result of their deliberations and investigations is to be communicated to you, and through you to the people at large. No state can be said to contain within itself all the elements of prosperity, which is deficient in soil adapted to agricultural purposes, or in skillful cultivators. In the former Maine is in no wise deficient. The object of the legislation referred to was to add to the number of the latter. The object is commendable in itself, and in accordance with a sound state policy. The development of its agricultural resources is next in importance to the education of its masses;—indeed the latter tends directly to the promotion of the former. Scientific research and practical observation are daily bringing to light facts and truths of importance to the economical purposes of agriculture, and I know of no better mode for promoting the public welfare, than by diffusing the

knowledge of those discoveries among the people. This is one of the objects contemplated by the establishment of the board of agriculture.

It has occurred to me that the same object may be further promoted by assigning some apartment in the capitol as a place of temporary deposit and exhibition of improved implements of agriculture, as well as a place of deposit for examination, distribution and mutual interchange of the most approved qualities of agricultural products and seeds. Through the agency of members of the legislature, and the numerous attendants upon their deliberations, the benefits derivable from these sources may be widely disseminated through the state. I call your attention to this subject in the hope that if it should not be deemed of sufficient importance to call for your official action, it may so far commend itself to your minds and the minds of others, that through your individual or associated action, the same practical result may be attained.

You are aware undoubtedly of the recent action of the legal authorities of the Commonwealth of Massachusetts in relation to the lands belonging to her lying within this state. I submit to you, in the event that the commonwealth is still desirous of disposing of her interest in those lands, whether sound policy does not require that this state should be the purchaser, provided the title could be secured for a fair and reasonable consideration. Upon this subject I may have occasion to communicate with you hereafter.

I commend to your care the state institutions which have for their object the reformation of the depraved, and the relief of the unfortunate. The necessary information relating to their present condition and prospects will in due time be laid before you. I need not say to you that the appeals which they make to the bounty of the state should not be disregarded. In this case public charity and public duty are synonymous.

A vacancy in the representation of this state in the senate of the United States will occur on the fourth of March next, by the expiration of the official term of one of the senators. The importance of a full representation at the approaching juncture will undoubtedly stimulate you to an early discharge of the duty which in such case devolves upon the legislature.

I congratulate you upon the additional evidence afforded by the ready acquiescence of the people in the result of the recent presidential canvass,—that there still exists an all-pervading sentiment of attachment to the union, stronger than the ties of party. I regard it as a continuing guaranty of the perpetuity of the union, and of those amicable relations, the result of mutual concession and compromise, which now exist between the various sections of our wide spread republic. It is best that it is so:—the plighted faith of the framers of the constitution should not be betrayed by those who are reaping the fruits of their labors.

Whatever may be the views entertained by others, the result of the

recent election appears to my mind a strong indication of the public sentiment upon most of the questions of national policy which have for some years distracted the public mind. However much in conflict with the views heretofore entertained by one of the great political parties as to the wisest and best policy for the interests of the country, the result is not to be regarded by us with unmingled regret. We yield to the supremacy of the majority, and abide, in faith and hope, the result of the experiment. Be that result what it may, it affords us the assurance of permanency in the policy to be adopted and pursued by the general government, and that, in and of itself, is a national blessing. However unpropitious it may be to the sectional agitator and mere political aspirant, it is what the people demand, and the interests of the country require; the confidence which is its legitimate fruit, gives a new impetus to labor and enterprise.

The age in which we live may be termed emphatically the age of enterprise. Man's moral and intellectual nature, quickened by new impulses, or aroused to a more energetic exercise of its innate powers, is seeking new and wider fields of action. The great heart of humanity is beating quicker and stronger. Human intellect is training the elements to do its bidding, and the material creation, responsive to the demand of the age, is unlocking her store-houses of wealth, and letting in the light of day on treasures which have laid hidden since the days before the flood. There is a new flood—a flood of intellectual and moral light and life and energy—breaking all over the civilized world. The bow of promise already spans the heavens. The timid and doubting, who see in the rushing current only the breaking down of ancient barriers, the submersion of all that is time-honored and sacred, would they but read aright, would learn the lesson which the Infinite Wisdom has ever been teaching to its children—that progress is an element of man's nature—progress, moral, intellectual, political. It may for a season grope its way in the darkness of ignorance; it may struggle for a time in the chains of despotism. But it still lives—and moves—and struggles. Until God's designs and man's nature are changed, all attempts to crush it will prove unavailing. Priestcraft tried the experiment—and the splendor of the Vatican grew dim in the light of the reformation. Kingcraft tried the experiment—and the western continent rung with the exulting shout of a new-born nation.

The social, moral, and political enterprises of the day are the legitimate results of the workings of this element in man's nature. They may be shaped, moulded, directed, but cannot be permanently arrested. The various enterprises for the amelioration of the social and moral condition of the enslaved, the oppressed, the degraded, in which many strong hands and earnest hearts are engaged, should be encouraged, yet guided by that wisdom which teaches that God is in the still small voice rather than in the whirlwind, the earthquake and the fire. That enterprise which seeks to plant the banner of this union on territory other than that over which it now floats, should be honored and

approved so far as it is prompted by the honest desire to diffuse the blessings of our republican institutions ; but disapproved and denounced when it comes in conflict with the eternal law of right, or puts in jeopardy the honor of the nation.

In proportion to the magnitude of the results aimed at by the various enterprises of the day, is the duty incumbent upon those occupying important stations in society and the state, to exert their private and official influence in encouraging the right and repressing the wrong. Constituting for the time being the guardians of the honor and the interests of the state, a two-fold duty rests upon you, as legislators and as men. That you will discharge that duty faithfully and fearlessly I have the utmost confidence. And I have only to invoke, for you and for myself, that wisdom from on high which we alike need for our guidance and direction.