

MAINE STATE LEGISLATURE

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ACTS AND RESOLVES

PASSED BY THE

EXTRA SESSION OF THE THIRTY-SECOND LEGISLATURE, 1853,

AND THE

THIRTY-THIRD LEGISLATURE

OF THE

STATE OF MAINE,

1854.

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Published by the Secretary of State, agreeably to Resolves of June 28, 1820,  
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Augusta:

WILLIAM T. JOHNSON, PRINTER TO THE STATE.

1854.

GOVERNOR CROSBY'S ADDRESS.

Gentlemen of the Senate and House of Representatives :

THE people of this state have confided to you an important trust. You have accepted it, and pledged yourselves to the faithful performance of the duties it devolves upon you. What those duties are, the constitution briefly defines in conferring upon you authority to make and establish all reasonable laws and regulations for the defense and benefit of the people. The people have a right to require of you a strict adherence to the line of duty thus clearly indicated. Any deviation from it must lead to the assumption of authority not conferred, the exercise of functions not delegated. The welfare of the people, the destinies of the state for the time being, are entrusted to your keeping; and, viewed aright, it is a high, a sacred, a momentous trust,—one not thoughtlessly to be assumed, nor lightly to be regarded—one which should quicken every mind with a conviction of responsibility, and a steadfast resolution that the protection of the people's rights, the promotion of their interests, shall constitute the sole object of deliberation, and that nothing foreign to that object shall be permitted to occupy your time or thought as legislators.

In this brief allusion to your duties and responsibilities, I am not unmindful of those which are attached to the position which you, as representatives of the people, and in the mode provided by the constitution, have assigned to me. I assume anew those responsibilities, and enter upon the performance of those duties, looking for strength and guidance to Him who presides over the destinies of men and nations. The obligations of the oath of fidelity rest upon us alike. Let it be our earnest effort and highest ambition to be alike faithful to duty.

You have surrounded me with constitutional advisers of my own political faith,—men in whose ability, wisdom, and honesty of purpose, I have the highest confidence. It was on your part, it is true, but a simple act of justice; yet one which demands from me an expression of gratitude which I cheerfully render, for the magnanimity which prompted it. I fully recognize the additional authority with which it invests me, and the additional responsibility it imposes. The obligation I am under to assume the one, forbids that I should shrink from the exercise of the other.

In the popular phraseology of the day, which I may be excused for employing, my administration of the financial affairs of the state, so far as I am immediately concerned, will be with a single eye to that economy which is most in harmony with the idea of a republican form of government. So far as lies in my power, the public treasury, and the public domain, shall be protected from speculation and plunder. Believing that the supreme executive of the state is in a high degree responsible for the faithful execution of the laws, in the selection of the officers charged with the performance of that duty, I shall appoint those only who are honest and capable; and I entertain the belief that I shall find the necessary number among those whose political sentiments harmonize with my own. I make this early and public declaration for the purpose of relieving others as well as myself from any unnecessary expenditure of time and effort in this direction.

Political parties are incident to every form of government in which freedom of thought and utterance are tolerated. Their existence is not to be deprecated, for in the weakness of human nature, it is to the watchful eye which each keeps upon the movements of the other, that we can look with confidence for integrity in the administration of government, and the preservation of civil and religious liberty. It is only when plunder, rather than principle, becomes the cohesive power of party, that party becomes unmitigated evil. Political parties should be, as with us they have long been, and I trust they ever may be, the exponents of principles. To abandon the one, is to renounce the other. The right of every man so to do is unquestionable: convinced of error, that right becomes a duty; a duty which should be discharged boldly, fearlessly, manfully. No paltry subterfuge should be permitted to serve as an apology—no anticipations of personal profit or aggrandizement admitted as a justification for the abandonment of party and principle. The integrity of the individual members of political parties, of the parties themselves, and of the Union, are synonymous: and each involves the destiny of the other.

Although, in the estimation of many, party is shorn of its crown and sceptre, it is not yet dethroned. Party creeds are not yet abolished. They are fully represented in your body, but I am unable to anticipate any question to come before you for consideration, which will furnish occasion for the discussion of articles of political faith, or their modes of action; or any matter, save one, which may call into exercise partisan feeling. I refer to the election of a senator to fill the vacancy existing in the representation from this state in the senate of the United States; and I must be permitted to express the hope, perhaps a futile one, that this matter may be finally disposed of at an early stage of the session, and not permitted to interfere with or retard the more important business for which you are convened. Such being the condition of things, I am unable to discover aught which should prevent you from entering with alacrity and harmony upon the work assigned you, and from furnishing your constituents, by a diligent

improvement of time, with conclusive evidence that devotion to their interests rather than the passion for place and its emoluments, is with you a controlling principle.

It is part of the duty imposed upon the chief magistrate to give to the legislature, from time to time, information of the condition of the state, and to recommend to their consideration such measures as he may deem expedient. The annual reports of the state treasurer, the land agent, the adjutant general, and the executive officers of the several state institutions, will be in due time laid before you. Those reports will furnish you with all necessary information in relation to the present condition of the finances of the state, its lands and other properties, and its institutions.

In performance of the other branch of duty adverted to, allow me to recommend to you, first of all, to legislate no more than the unquestionable wants of the people, the protection of their rights, and the promotion of their interests render absolutely necessary. The time has not yet arrived for the promulgation of the doctrine that no further legislation is needed. New combinations of circumstances, new emergencies, will of course continue to arise, as new fields of enterprise are opened, calling for the exercise of legislative power.

But it has been for some time very apparent that the demand for legislation far exceeded the necessity for it. Legislation ostensibly for the benefit of the whole people, but designed in reality to meet some case which has arisen between individuals, to say nothing of the injustice it may occasion to one of the parties, tends materially to diminish public confidence in the wisdom and integrity of the law making power. The attempt to provide by law for every case which may by possibility arise will ever prove an idle one. It is in vain to look for perfection in human legislation. The attempt to arrive at it by amendments usually defeats its objects, or, at least, leaves it unattained. As a choice of evils I hold it to be wiser, more for the interest of the people oftentimes, to retain upon the statute book a law as it is, even although imperfect in some of its provisions, than to be perpetually laboring to amend it. It is a legal maxim that every man is presumed to know the law. Such being the rule recognized and enforced by our courts in the administration of justice, it is in justice due to every man that our laws should be as few and as free from complexity as possible.

No trifling portion of the sessions of the legislature is often consumed in what is termed special legislation; legislation directly for individuals, but presumed to be, indirectly, for the benefit of the whole people. Such legislation is incident to the business enterprise which characterizes us as a people: no exception is to be taken to it as such. But it will not be amiss for me to remind you, that in so legislating for one individual you should have a careful regard for the interests of others, and see well to it that the natural rights of every citizen, as well as those secured by the constitution, are not infringed.

There are few subjects of general interest, to which I desire, very briefly, to direct your attention at this time, reserving as a subject for future communication others of minor importance.

The contract entered into by the commissioners appointed at the last annual session of the legislature, for the purchase of the public lands lying in this state belonging to the Commonwealth of Massachusetts and ratified by the legislature at its late special session, has been perfected and the title of Massachusetts transferred to this state. The conflicting interests which, during the greater portion of our existence as an independent state, have embarrassed the management of our public lands, and in no slight degree retarded their settlement and improvement, have ceased to exist, and we are now at liberty to adopt and pursue, unembarrassed, such policy in the management and disposal of the entire public domain as may be deemed most for our interest. What the wisest policy is you are to decide, and it is a question upon which there will be found to be, probably, no little diversity of opinion.

The first installment of the debt incurred in the purchase of the Massachusetts lands will not become due until the year eighteen hundred and sixty-three. The necessity for a forced sale of the lands purchased, therefore, does not now exist. Yet, for many reasons most obvious to every mind, immediate sales, to any amount, of lands suitable for agricultural purposes, to such as will enter upon and improve them with a view to a permanent settlement, are desirable. No readier method of augmenting the resources of the state can be devised than by adding to its population and taxable property. Sales of land to actual settlers tend directly to this end; and that will be judicious legislation which holds out strong inducements to the young, industrious and enterprising population of our own and other states to become purchasers. How strong those inducements should be I will not undertake to decide; but it requires no great amount of arithmetical skill to arrive at the result that the acquisition of any one industrious, intelligent, enterprising citizen is worth far more to the state than the lot of land he enters upon and cultivates would be were it to remain uncultivated.

It has heretofore been regarded sound policy for the state to encourage settlements upon her lands by aiding, directly or indirectly, in the construction of roads and bridges, in relieving settlers from some of the burthens of citizenship, and granting to them certain rights and privileges. I see no reason why this policy should be abandoned. An examination of the subject may bring your minds to the conclusion that it will be for the interest of the state to offer still stronger inducements, by adopting a policy more liberal, even, than she has heretofore done in this particular.

Although the suggestion before made applies more particularly to sales of lands adapted to agricultural purposes, it is, with some qualifications, equally applicable to a portion of those usually denom-

inated timber lands. To throw into the market at once all our timber lands, or to withdraw them entirely, would be, to my mind, alike inexpedient and injudicious. They should be carefully, not penuriously, husbanded as a fund from which the debt incurred in their purchase and management is ultimately to be paid, and at the same time employed as a means of developing and employing the enterprize and industrial efforts of our citizens. With a view to the attainment of the object last named, it seems to me that it will be just, as well as judicious, that such legislation shall be had as will enable men of limited capital, seeking a field for the investment of their labor by practical operations, to become purchasers directly from the state. This may be accomplished by providing for the sale of sections of townships in the same mode, and upon the same terms, as entire townships may be sold; and, perhaps, by granting limited *permits* in some localities, when, upon examination, it shall be deemed advantageous to the state to dispose of the timber without the soil.

There will still remain a large quantity of land well timbered, which, although not demanded by the present exigencies of the market, must be eventually, and at a much enhanced price. This territory the state will do well to retain as a safe investment, and to meet the demand which, in the natural course of business, will from time to time arise.

All sales of public lands, except such as are required for settling purposes, having been suspended by virtue of a resolve passed at the last session, the subject will very properly come before you for consideration. The act prescribing the mode of selling, passed at the last annual session, providing for sales on sealed proposals, after public notice, although imperfect in its details, comprises substantially the view I entertain of the best and safest policy to be adopted. Under such or similar enactments a fair field is opened for honorable competition among purchasers, and the possibility of favoritism excluded. Without intending to join in the popular clamor against the administration of the affairs of the land office, which has for many years prevailed, and, without intending to express any distrust of the integrity of the gentlemen who have successively had charge of it, I feel it to be due to those who may succeed them, to the general peace and harmony of all interested, to recommend to you to carefully define by legislation the duties of the land agent, and to confer upon that officer no more discretionary power than is absolutely necessary for the proper discharge of those duties. I make the recommendation not from any apprehension that any discretionary power conferred will be abused, but for the purpose of relieving the office from many embarrassments and responsibilities which render the performance of its duties unnecessarily onerous to the incumbent, and serve to arouse jealousies, and furnish an apology for imputations which should not exist against any department of government.

By reference to the map of the state it will be perceived that a large proportion of our public lands lie upon the waters of the Saint John. The products and business of that country will naturally follow the water-courses and flow to the city of Saint John. The railroad now in progress from Saint Andrews to Woodstock, thence to be continued to the Madawaska settlement, will afford a still further facility, and have an additional tendency to carry the business of the northeastern section of our state to the Province of New Brunswick. If there is any mode by which the business and trade of that region can be saved to the state, the settlement of the Aroostook country promoted, and the value of the public lands increased, it is most assuredly for the interest of the state to adopt it. The most obvious, and, perhaps, the only mode is by furnishing facilities for transportation. At the session of the legislature of eighteen hundred and fifty-two an act of incorporation was granted to certain individuals for the purpose of enabling them to construct a railroad from the terminus of the Bangor and Piscataquis Canal and Railroad Company in Oldtown, to the Mattawamkeag river in Indian township. That railroad, as I learn, is already under contract as far as Lincoln, and there is good reason for believing it will soon be completed to Mattawamkeag point. At the last named point it will nearly touch the public lands. It is said, although I am not prepared to vouch for the correctness of the assertion, that a very favorable route can be found from that point, by following up the Mattawamkeag to the Forks, so called, and thence to Number Eleven. Such a road, if constructed, will pass through a very valuable section of the state lands, and furnish the facility desired for the transportation of the manufactured and agricultural products of that section of the state to our own markets. Should the construction of such a road be undertaken by individual enterprise, there can be no question that it will be for the pecuniary interest of the state to afford all such aid and facilities as can be afforded consistently with a due regard for the rights of the whole people. During the ten years last past, the appropriations for the construction of roads and bridges, exclusive of grants of lands for similar purposes, have exceeded sixty-four thousand dollars. It is not to be presumed that the well established policy in this matter as indicated by the acts of successive legislatures, from the very commencement of our existence as an independent state, is now to be abandoned.

My attention has been called during the past year, to the laws upon our statute book providing for the organization, government, and discipline of the militia. Years have elapsed since it was found necessary to call into exercise the military arm of the state, and you will all unite with me in the hope that the occasion may never again occur. But neither the experience of the past nor hope for the future can justify a dereliction from duty. The obligations imposed upon the state as a member of the Union are not to be disregarded because her

people feel that they derive no benefit from them, or because the observance of them is of itself irksome, or has fallen into disrepute. No such sentiment, surely, should find its way into the halls of legislation and occupy a place upon the statute book. Yet a careful comparison of the laws of this state with those of the United States upon the subject of the militia, may convince you that this is the position which Maine now occupies.

Should you, however, be of a different opinion, I would at least invite your attention to the statute provisions relating particularly to the volunteer militia. The act of congress of April 23, 1808, provides for an annual appropriation of two hundred thousand dollars for the purpose of providing arms and military equipments for the whole body of the militia of the United States. It provides further, that all the arms procured in virtue of that act shall be transmitted to the several states and territories, in proportion to the number of the effective militia in each state and territory, to be distributed to the militia under such rules and regulations as shall by law be prescribed. Under this act, Maine has annually received the amount of arms and equipments apportioned to her, and has now in her arsenals, at Portland and Bangor, over twelve thousand stands of arms with the usual equipments and appendages. By the act of August 10, 1848, provision was made for their distribution to the militia. That act was repealed April 26, 1852, and since that time none have been distributed, although numerous applications therefor have been made by volunteer companies organized in the mode required by law, which constitute in fact our only *effective* militia.

I submit to you whether the state is not in honor and justice bound to appropriate this property to the use contemplated by the law under which she received it; whether prudential considerations do not call for its distribution, as it may be required, among the duly organized volunteer militia, to whom alone we can look for prompt and efficient aid, should occasion require, in the suppression of insurrection, the protection of persons and property from lawless outrage, and in the execution of the laws of the land; whether it is not for her pecuniary interest so to do, rather than to expend money in preserving it from deterioration, in keeping her arsenals in repair, and in the payment of salaries to the individuals employed to take charge of them.

Our constitution, recognizing the truth that a general diffusion of the advantages of education is essential to the preservation of the rights and liberties of the people, confers authority and imposes upon the legislature the duty of requiring that suitable provision shall be made for the support and maintenance of public schools, and of encouraging and endowing from time to time, as the circumstances of the people may authorize, academies, colleges, and seminaries of learning, within the state. Laws providing for the support of public schools were among the earliest of our enactments, and a commendable degree of liberality has been manifested by successive legislatures in the

endowment of our higher seminaries of learning. The duty imposed has been, in this particular, faithfully performed. But the question has arisen from time to time, whether something further is not required, —whether the circumstances of the people do not authorize that something further should be done to give a more thorough and earnest efficiency to those seminaries of humbler pretensions, but of far higher importance to the people at large—our public schools. With this object in view, the legislature in eighteen hundred and forty-six established a board of education, and in eighteen hundred and forty-seven, teachers' institutes. Whether a subsequent legislature acted wisely in abolishing both it does not become me to decide. But so strong are my convictions that the substitute provided by the legislature is totally inadequate to the attainment of the object in view, that I do not hesitate to recommend the repeal of the act creating it. I refer to the act establishing the office of commissioner of common schools for each county in the state, approved April 26, 1852.

I would not be understood as entertaining the opinion that there is no necessity for a general superintendence and supervision of our public schools, or that they would not derive essential benefit, directly or indirectly, from the efforts of earnest, devoted laborers in the cause of popular education. But the superintendence of skillful, competent teachers, rather than of committees or commissioners, is the great want. Supply this want, and you give an additional motive power to the mightiest engine which human ingenuity has ever devised or employed for the advancement of mental and moral freedom.

I should be happy to lay before you at this time the information contemplated by a resolve passed at the last session, having reference to the education of teachers for the common schools, but circumstances beyond my control prevent. The authority conferred by that resolve having expired by limitation, I suggest to you the expediency of passing a similar one, should nothing definite upon the subject be accomplished at the present session. From the interest heretofore manifested, and more recent indications of public sentiment, I infer that your attention will be called to this subject, and I bespeak for it your favorable consideration.

In my first official communication to the legislature, I recommended the appropriation of a sum of money sufficient to complete the agricultural and geological survey of the state, commenced some years since, but, in my estimation, prematurely suspended. I did so in the belief that the pecuniary interests of the state would be promoted thereby. The bare fact that in a large majority of the states composing the Union, similar surveys have been completed, or are now in progress, constitutes of itself alone a good reason why Maine should not be behind her sister states in the attempt to discover and develop her natural resources. But the further fact, as established by official reports, that the result of those surveys has been without exception, the discovery of sources of wealth before unknown, furnishes a still

stronger reason for the prosecution of the work in this state. No reasonable doubt can be entertained that it will, sooner or later, be resumed and completed. The longer it is delayed, the longer will so much of the natural wealth of the state as would be brought to light by it, remain unproductive. A careful review of the reasons which induced me to recommend this measure to the favorable consideration of your predecessors, has strengthened my conviction of its importance, and I am constrained by a sense of duty to renew the recommendation.

The consular convention of the 23d of February last, between the United States and France, contains a stipulation on the part of the United States, that the president shall recommend to those states of the Union by whose existing laws aliens are not permitted to hold real estate, the passage of such laws as may be necessary for the purpose of conferring that right. I have to inform you that in accordance with the stipulation adverted to, the president has communicated to the executive of this state, his recommendation that if French subjects are not allowed to hold real estate in Maine, under existing laws, that right may be conferred upon them.

The embarrassments which have attended the organization of the state government at the present session, growing out of the failure on the part of the people to elect a majority of the members of one branch of the legislature, and the strong probability of a recurrence of the same state of affairs, cannot fail to suggest to you, and the people of the state at large, the expediency, if not the necessity, of some change in our constitution. I recommend to you the adoption of the preliminary measures necessary to effect such a change.

I congratulate you, gentlemen, and our fellow-citizens at large, upon the present highly prosperous condition of our state in its various interests. The conviction which cannot fail to exist in every observing mind, that this prosperity is not merely fortuitous, temporary, the effect of some extraneous cause liable at any moment to be removed, but rather the legitimate consequence of enterprise wisely directed and labor judiciously employed, renders it still more a proper subject for congratulation.

So far as it is within our power, by legislative action, to encourage industrial effort, whether by developing the resources of the state, thereby opening new fields for enterprise, or by furnishing additional facilities and inducements for the investment of capital, it is our duty so to do. I look to prosperity at home as the means of staying the tide of emigration which has been setting so strongly to the west, and of calling back many of our young and vigorous population, now seeking employment and a competence abroad. No measure which will tend to produce results so desirable should be left untried.

I congratulate you, also, as citizens of the republic, upon our present prosperous condition as a nation. Maintaining, as I trust we ever may, amicable relations with all the civilized nations of the earth, in the full enjoyment of all the blessings and privileges incident to a

popular form of government, we are gradually fulfilling the mission assigned to us. That there are dangers in our pathway is not to be disguised. Some, perhaps, which human foresight fails to discover, and which human legislation cannot avert. Others against which our only safeguard is to be found in the maintenance of national and individual integrity, in a judicious economy, and an unwavering and incorruptible patriotism. The people look to those occupying places of honor and trust for an exemplification of these traits of character in their public and private action, not only as a recognition of their obligations to the people, in return for the confidence reposed in them, but as a guarantee that that confidence will not be betrayed. There is a power mightier, for good or evil, than any law the legislature can enact, or the executive enforce—the power of example. Emanating alike from the most exalted and the lowliest station,—from the mightiest nation and the humblest individual,—it may operate as an incentive to noble action, or furnish an apology for groveling crime. No act of legislation can exalt the standard of patriotism or integrity, or arrest the rushing flood of extravagance which too often follows in the wake of prosperity; but by a rigid adherence to the rule of right,—by a self-sacrificing devotion of their time and talents to the advancement of the public welfare,—by an economical administration of their own affairs and those of the state and nation,—legislators may furnish an example, the influence of which will be felt through all classes and conditions of society. Guided by the light of this truth, you cannot deviate from the path of duty.

In conclusion, gentlemen, allow me to tender to you the assurance of my cheerful co-operation in the measures you may originate for the promotion of the public welfare, and to express the hope that the results of your various deliberations may be such as will reflect honor upon yourselves and the state.