

MAINE STATE LEGISLATURE

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ACTS AND RESOLVES

PASSED BY THE

THIRTY-EIGHTH LEGISLATURE

OF THE

STATE OF MAINE.

1859.

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Published by the Secretary of State, agreeably to Resolves of June 28, 1820, February  
26, 1840, and March 16, 1842.  
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1859.

GOVERNOR MORRILL'S ADDRESS.

*Gentlemen of the senate
and of the house of representatives :*

One more circle of the political year completed, you are assembled, with solicitous care to attend the commonwealth on its entrance upon its annual round of active beneficence, invested with rare official dignity, and invested "with full power to make and establish all reasonable laws and regulations for the defence and benefit of the state." Your "declaration of the choice" of the people, while it summons me to a separate department under the constitution, invites suggestion, co-operation and assent in the exercise of the powers chiefly confided to you. The checks provided, as well in two distinct branches of the legislature as in the participation of the executive, indicate with what jealous care these important functions have been guarded, and with what solicitude we should approach the discharge of the duties devolving upon us. Looking to the great Legislator of the Universe for guidance, may these duties be performed in a manner to promote the highest good of the state.

The financial condition of the state will arrest your attention, and will be found to be such as to demand the practice of the most exact economy in every branch of the public service, and the careful scrutiny of the legislature in the expenditures authorized. That sense in which a national debt is supposed to be a blessing, is foreign to our people; nor should it be presumed their loyalty and patriotism will be increased with their burdens.

The absolute necessities of the state are deemed to be the only safe rule upon which grants of money can justly be made to be levied in taxes upon the polls and estates. The true aim of republican institutions is to ensure the greatest degree of comfort to each individual, and will therefore leave the people in the enjoyment of all their means not required for an unostentatious administration of the government.

The expenditures of the state have been constantly augmenting of late years, not only keeping pace with increasing population, but many new items of disbursement have been added by way of our charitable, reformatory, educational and agricultural institutions, and old ones increased, until the ordinary receipts are far behind the annual demands upon the treasury; presenting at once the stern alternative of a constantly advancing annual tax, or retrenchment and economy. This

view will be shown by contrasting the ordinary expenditures of the years 1846 to 1849, inclusive, with those of a later period.

1846, . . .	\$259,000	1856, . . .	\$423,000
1847, . . .	272,000	1857, . . .	401,000
1848, . . .	266,000	1858, . . .	365,000

Showing an annual average expenditure during the first period of \$232,000, and of \$396,000 for the latter period—an average annual excess of the later over the former of \$164,000, and an aggregate excess of \$491,000 for the three years.

This increase in the annual expenditures is mainly attributable to the adoption of a more liberal policy for the promotion of general education, the advancement of agriculture, and for the establishment and support of charitable and reformatory institutions. The wisdom and humanity of this policy by the state, is unquestionable; and yet it greatly increases the sphere of its duties and the demands upon its bounty, while it introduces into the public service a new element of public solicitude, requiring the utmost vigilance and watchfulness, under the humanitarian impulses of the age, to keep in check the constant tendency to press upon the verge beyond which public charity becomes excessive liberality with the money of the people, and oppressive.

There is another class of items which go to swell the annual expenditures, I regret to say, not in themselves meritorious, and which exist only as abuses, of minor import individually, but large in the aggregate, and which I deem it my duty to state should receive the careful scrutiny of each department of the government.

The liabilities of the state are:—public debt, \$699,500; trust fund, \$424,577.62; making \$1,124,077.62. The former is payable in unequal sums of not less than \$30,000, nor more than \$50,000 annually, and all at the close of the year 1876, while annual interest is payable upon the latter for the support of common schools, Indian annuities, &c., &c.

The resources of the state are its public lands and securities in the land office. These securities are nominally \$128,000, a moiety of which, at least, I fear will be lost to the treasury, and the legislation of 1856 will need be applied to the balance to render them available.

There are at the present time about 2,000,000 acres of public lands. Of these, 1,500,000 are valuable chiefly as settling lands, and under our present policy, or any that would be thought wise to adopt, will yield no revenue to the treasury. The residue, under a judicious system of annual permits and occasional sales, might be made to yield, it is believed, a sum sufficient to extinguish the public debt.

The approximate estimate of receipts and expenditures for the current year, furnished me by the treasurer, are: receipts, \$368,000; expenditures, \$431,000. This estimate includes an item of \$30,000 of the public debt payable the present year, and which I recommend should be paid, and not renewed, and thus begin, what should be the

settled policy, to pay and cancel the public debt of the state as it matures. This estimate also embraces an item of receipts of \$25,000 from the land office, the realization of which will depend upon the action of the legislature. It does not embrace our claim upon the general government for interest upon expenses incurred in the protection of the disputed territory, from which source \$11,000 were received the last year through the efforts of our agent at Washington, and there is reason to hope that some \$40,000 may be realized from that quarter the present year.

It will become your duty to provide for the deficiency of receipts to meet the ordinary expenditures, as well as for any demand upon the treasury arising from appropriations for purposes not embraced in this list. It should be observed that no merely temporary expedient would be what is plainly demanded by the financial circumstances of the state. It is obvious, from a glance at our expenditures and resources, that the former, in the future, must be greatly retrenched or the state tax largely increased. Nothing is clearer than our duty as legislators, to keep our current expenditures within our ordinary annual income, and as statesmen, to provide for the future, so that the expenditures shall be annually met by the accruing receipts. Whatever exists as mere abuses of our system, whether in the toleration of unnecessary offices, or questionable practices, are comparatively easy to be reformed, and would naturally fall under an ordinary effort at retrenchment, while whatever inheres in the system itself is not so apparent, and for that reason more difficult to reform, although not the less certain in their effects upon the general prosperity. An intelligent apprehension of the state's financial condition, will naturally lead to a consideration of these questions where a pecuniary saving can be made, and the needs of the treasury for present relief will suggest the necessity of a prompt demand for exact economy.

The great item of present and prospective expense, and the great item of present and prospective retrenchment and reform also, is the legislative expenses. I deem a larger reduction of these expenses necessary and practicable, and earnestly commend the subject to your careful consideration.

The annual expenses of legislation directly in money from the treasury and indirectly in time and labor incident to annual elections, are unreasonably large. The former cannot be less on an average than \$75,000; the latter are much more.

The expenses of legislation in 1856 and 1857, were as follows:

1856.		1857.	
Pay of house,	\$39,368	Pay of house,	\$36,280
“ senate,	8,400	“ senate,	9,045
“ council,	3,100	“ council,	2,500
Fuel, lights, repairs, &c.,	2,500	Fuel, lights, and repairs,	3,900
Stationery,	2,200	Stationery,	2,000

Printing,	15,500		Printing,	12,500
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	\$73,068			\$66,225

Besides clerks in the public offices, stitching, binding, indexes, and publication of the journals, say \$10,000.

The average length of the annual sessions of the legislature for the last ten years, is ninety-one days, yielding an annual product of about one hundred resolves, one hundred and fifty special and seventy-five general acts. Of the general acts, two-thirds at least will be found to be acts "to amend," "additional to," "to repeal," "explanatory of," "defining," and "to simplify" former acts. Of the private acts, the great proportion were acts "to incorporate" companies for the promotion of various private enterprises, and which could all be done as well under a general act for that purpose, without application to the legislature, while the objects to be accomplished by the resolves in most cases, might properly be confided by general powers to some other department of the government, or heads of departments.

Thus it will be seen the law-making power is legislating: enacting, revising, amending, explaining, defining, simplifying, and repealing, full one-fourth of the political year, while the people are pretty busy, arranging for, attending to, engaged in, and determinating the elections of governor, senators, representatives, county and municipal officers, the balance of the year. That there is too much legislation is proverbial. That it costs too much is obvious. That the ceaseless agitation incident to annual elections is prejudicial to that calm dignity which should characterize the election of our rulers and legislators, will not be doubted. The burden is not the less greivous because the result of a self-imposed system. The expense is not the less real because it is the voluntary expense of time and labor, nor on that account the less useless; and the ultimate result not the less prejudicial to the general prosperity because it is the cheerful homage of the citizen to the commonwealth. Prospectively without resources to meet the current expenditures of the government, except what shall be drawn directly from the pockets of the people by taxation, and these expenditures constantly advancing, it becomes a question of vital importance whether it does not cost too much money, time and labor, to govern the state? Whether the real interests of the state may not be as well cared for with less attention bestowed upon political and party questions, and leaving more leisure for business pursuits. Considering the perfected state of our laws with general laws for private corporations and with reasonable adherence to the law authorizing antecedent notice upon all legislation affecting private rights, it is believed less than one-half the time and money spent in annual session and elections would be adequate to all the demands for legislation.

With annual sessions, there is little hope of reform; so large a portion of the time is ordinarily spent in the preliminaries, that the aspira-

tions even of the members for a short session, die out, with positive languor consequent upon inaction before the actual business is brought before them.

With a prevalent and universal demand for short sessions, less legislation and less expense, the state annually exhibits marked uniformity in time consumed, quantity of legislation and amount of expenditures. Biennial sessions and elections, in my judgment, would do much to relieve the burden of which there is such universal complaint. I therefore recommend that you propose to the people a change of the constitution of the state, providing for biennial instead of annual sessions and elections—and for a change of the time of holding the election from September to November, the day of the election of electors of president and vice president, and thereby obviate the necessity of an additional election each presidential year.

Our state, it need not be doubted, possesses the elements of a prosperous commonwealth. Its physical geography clearly indicates the path of its future progress. No people should be unmindful of, as none can long successfully struggle against, the natural characteristics of the country they inhabit. Its natural features and relative position are quite decisive in modifying the present and predetermining the future. We cannot hope to escape the influences of similar causes. The general physical facts, peculiar to our state, are its greatly diversified soil and climate—the former fruitful, yet not exuberant; the latter severe, yet pure and salubrious—its immense forests, its mineral resources, its numerous and unequalled water-falls, its navigable rivers and extended sea coasts. From careful scrutiny of these natural features, we may not inaccurately estimate its capacity for material prosperity, and may learn that while Providence has not made it attractive by any exuberant fruitfulness and blandness of climate, it has not, on the other hand, been subjected to those extremes of cold and heat which are prejudicial to life, but that under serene and invigorating skies, with provident amplitude, by its external forms, its relative situation, and by the variety and nature of its internal resources, it has been fitly designed for the habitation of a people of complex civilization; and that that will be found to be the true policy which recognizes these natural aptitudes and sees in the development of each the essential progress of the state.

Agriculture is doubtless our prime interest; first in rank, first in magnitude, first in excellence; and in it the great body of the people are employed; to it mainly the state owes its progress in population and those improvements which contribute so largely to its wealth. An agricultural class seems to be indispensable to the constitution and preservation of a republican commonwealth.

Without regard to the mere production of wealth, suppose the agricultural class produces only as much as suffices for the plentiful support of its members, and no superabundance, as accumulated profit; still they have attained the highest end—they have cultivated and made

productive their land, maintained their families and reared them in industry, honesty, and those manly qualities which are the reliance of society and states. That occupation which produces man in his best condition, is incomparably better for society than any system however profitable.

How shall this important interest be advanced? It has essentially two needs—a better cultivation of the settled, and settlement of the wilderness portions of our territory.

Of the twenty millions acres contained within our limits, four and one-half millions only are in farms, and one-half of these only what are denominated improved. These farms are cultivated by about 80,000 farmers and 20,000 laborers. They are generally fruitful and well adapted to the various purposes of agriculture and favorable to the growth of most of the vegetable productions of the northern states. With reasonable improvements and a better cultivation they would afford profitable employment and support to many times the number now engaged, furnish occupation at home for the surplus population that now goes abroad, and greatly swell the aggregate agriculture of the state. Of the unsettled lands there are, perhaps, 2,000,000 acres in the valley of the Aroostook, and as much more in the counties of Piscataquis, Somerset and Franklin. These lands will compare favorably with any in the settled portions. The Aroostook region has been described as “a well wooded region, equaling in fertility the famed regions of the western states, and capable, even under a less congenial climate, of producing wheat and other grain fully equal in abundance with any soils of which we have any record.” The improvement of one portion and the settlement of the other, it is obvious would have a most important bearing upon our growth and prosperity, and would render the state capable of sustaining a vast population. Provisions have been made for the formation of societies, under the patronage of the state, for the promotion of general agriculture, and also for a state board of agriculture for similar purposes, and which, doubtless, will prove useful in disseminating information and stimulating agriculturists to greater effort for improvement.

During the past year an active emigration has been going on into the county of Aroostook, giving earnest of the speedy settlement of that region, and at the same time inviting the aid and co-operation of the state.

A need of more accurate information to aid the immigrant has been much felt, to supply which, in part, as well as for the use of the legislature to facilitate intelligent legislation upon the subject of the wilderness portion of our territory, a map has been prepared, under the direction of the land agent, to be placed in the capitol, giving, on a large scale, the topography of these sections. Other states are constantly making efforts to bring their respective sections to the favorable notice of the public, at home and abroad. Geographical surveys have

been made, and statistical reports published and circulated pointing out the advantages and resources of their respective counties, with a view to invite immigration thither. There would seem to be occasion for a similar effort by this state. It is to this kind of information, I am informed by the land agent, more than to any other, that the state is indebted for the immigration now setting towards the Aroostook.

What additional legislation is required and what methods need to be adopted to facilitate objects so important, are questions wholly within your province to determine. It should be observed, however, that in any measure designed to promote general agriculture, the fact that it may never be expected to compete with more favored regions in the markets of the country, should not be overlooked. It will always require the higher and better prices of local or home demand, and hence will need to be developed with the general growth of manufactures and mechanic arts. No mere adventitious aids would be desirable—would do more than excite a temporary interest, with no lasting or permanently favorable results. In its resources and natural features, our state is not simple, but composite—not one interest paramount to all others and subordinating all others—but many interests, each bearing upon, upholding and stimulating the other, and all combined presenting a greatly diversified yet harmonious commonwealth. A just appreciation of its natural advantages and capabilities for commerce, manufactures and the mechanic arts, in connection with its extended area and diversified soil, will not fail to inspire with confidence in its certain growth and ultimate power and prosperity.

For the condition and needs of the common schools, I refer you to the report of the superintendent of these schools, which will be laid before you.

The school returns exhibit the gratifying facts that, notwithstanding the severe financial embarrassments, the excess of money raised by the several cities and towns for the support of schools the past year, over the amount required by law, was the sum of \$54,712.00, while the sum of \$66,739 was expended in the erection of school houses during the same period, evincing thereby the real and unabated interest taken in the cause of popular education.

The whole amount raised by voluntary taxation was \$402,761.00. The whole amount expended for school purposes, \$623,599.69. Whole number of scholars attending summer schools, 132,182. Whole number attending winter schools, 154,860. The value of school edifices in the state is returned as \$1,105,967.

I renew the recommendation in my last annual message for the establishment of a normal school as indispensable to the interests of the common schools.

Detailed reports of the officers of the insane hospital and reform school, for the information of the government, will be presented, and will be found to contain a statement of the condition, concerns, and wants of these institutions.

Under the operation of the legislation of the last session of the legislature the demands of the latter upon the treasury are considerably diminished, while its usefulness within the scope of its original design, it is hoped may not be impaired. The expenses to the state of the former have been increased by recent legislation; but the policy is believed to be humane and wise, and while it operates to induce the towns to give this class of the unfortunate poor the benefits of the institution, it does not unreasonably add to the public burdens.

The state, at an early period, made provision for the education and support of the indigent deaf, dumb and blind; and authorized the governor and council to provide for such at the American asylum at Hartford, Conn., for the education and instruction of the deaf and dumb, and at the Perkins' institute, South Boston, for the education of the blind. This state had, under these provisions, the past year, forty-two pupils at the American asylum, at an annual cost of about \$4,000, and at the Perkins' institute sixteen at a cost of about \$2,000.

A visit to these institutions the past year with a committee of the executive council, enables me to bear testimony that they are, in their administration and general arrangement, highly conducive to the best interests of the pupils, and that the situation of the beneficiaries from this state is highly gratifying, and the policy of sending to these institutions is undoubtedly wise, both as a matter of economy and the unequalled advantages to the pupils.

The uniform policy of the state, for many years, has been to grant permits to cut timber upon the public lands. In the late revision of the general laws, the provision authorizing permits by the land agent was not retained, and consequently that officer, charged with the duty of protecting these lands from trespassers involving the expense of a large annual outlay, is without the power of reimbursing the state for these necessary charges. I recommend that the provision referred to be restored.

The condition of the securities in the land office is such that in order to realize anything from that quarter it will be found necessary to apply to them the principles of the legislation of 1856, which requires an annual payment of a fixed portion, or forfeiture of the lands sold. I refer you to the report of the land agent for a detailed statement of the operations of the land office.

In my annual message to the last legislature I urged the importance of placing the militia system, at once, by suitable enactments upon its contemplated constitutional basis; of reducing the number of troops authorized for active service, and of providing for their pay and the general expenses of the system by imposing a slight equivalent upon the great body of those enrolled, but not required to perform active duty, and in lieu of that military service imposed by the constitution. Upon further reflection I am unable to perceive why legislation upon this subject should not be in harmony with the constitution. It is plain

that by it the great body of the people between certain ages were subjected to the performance of military service, whenever the exigencies of the state or country should demand it. But as in times of peace only a limited number would be needed for actual service, it was accordingly provided that all of the class mentioned should be enrolled and that a large portion might be excused from actual service on payment of such sum as the legislature should determine.

A law framed in accordance with these requirements, without being oppressive to that class who are excused from service upon payment of a slight equivalent, would relieve the treasury of the present expense, which was never designed should fall upon it, and enable the state to pay the small body of troops required for actual duty, some just compensation.

At the trial of capital cases not less than a majority of the justices of the supreme judicial court are required to be present, and not less than a majority of the whole court are to concur in any ruling or instructions in such trial. These provisions practically subject to great inconvenience and delays in the ordinary administration of justice, besides they determine a rule of no practical utility which might prove highly prejudicial. Under the practical working of the law of capital punishment, no objection is perceived to the trial of this class of cases by a single judge. For information and suggestions upon this subject, and also of other important matters connected with the administration of criminal justice, I refer you to the annual report of the attorney general.

The claims of this state upon the general government for expenses in the protection of the disputed territory, in the Mexican war and for interest paid, have been recognized by congress, and it is hoped will not be longer delayed. The nature of these claims and their condition will appear from the reports of the commissioner at Washington which will be laid before you.

An appropriation of \$13,000 was made by the last legislature to be expended by the governor and council for the enlargement of the state prison at Thomaston. It made provision for an investigation into the affairs of the prison authorizing for that purpose the appointment of some suitable person to examine into the system of disbursements, labor and discipline, and to compare the same with prisons in other states in order to determine whether it may not be made self-supporting.

Upon an examination into the condition of the prison and its wants, immediately upon the adjournment of the legislature, it was apparent that the sum appropriated was inadequate to make the contemplated enlargement, not to mention additional workshops, of which there is great need. It was therefore concluded, except as to a slight expenditure for the accommodation of the prisoners to defer the expenditure of the appropriation to such time as would enable the legislature, through the report of the commission, to be possessed of all needful information as to the condition and needs of the prison and to act intelligently in

relation thereto. The trust contemplated by the resolve of the last legislature was confided to a gentleman of intelligence who has bestowed much time upon the subject, and whose report when received, will be communicated for the information of the legislature.

Causes not understood to involve the present government of the prison, but growing out of the system of internal economy, labor and general arrangements of the establishments and which have existed from the beginning, have made it a large annual expense to the state. There is urgent necessity for thorough reform in these respects. The general structure is such that an unreasonably large force is required for discipline and safety. From incompleteness and positive lack of workshops the men cannot be employed to the best advantage. Not to mention other causes a large deficiency in the revenue and excess in the expenditure would necessarily follow these. Instead of making a large annual draft upon the treasury, it is in my judgment practicable that the prison should become entirely self-supporting. I forbear to enlarge upon this topic as the whole subject will be presented in detail in the report of the commission but add the expression of my conviction that you can do no *better* service to the state than to give it your early and careful consideration.

Upon information, from sources entitled to credit, of fraudulent and irregular transactions at the late election in the plantations organized for election purposes, particularly in the county of Aroostook in the French settlements, (with the advice of the council) I caused an examination into the facts to be made. The matter was confided to a citizen of the state of great intelligence, who upon inquiry of the principal inhabitants in those locations and by examination of such of the records as were accessible, was able to gather and report what took place, and which in my judgment suggest the necessity of further legislation to preserve the purity of the ballot-box and to protect that people in the exercise of the elective franchise, and at the same time enable them to possess a better understanding of their rights and duties.

There are some eight hundred voters in these settlements and four thousand souls suddenly subjected to our jurisdiction by treaty, wholly unacquainted with our language, without education, situated upon our extreme borders, in a condition of entire isolation, from position, habit and prejudices, they have grown up a distinct community, and although the elective franchise has been conferred and they have thus been enabled to participate in our elections they have little or no knowledge of or interest for our institutions or sympathy with our people, and are accordingly easily imposed upon by the unscrupulous and designing. They are, however, an honest, well-meaning and simple-hearted people and occupying as they do a position within our limits and rapidly increasing in numbers, their education in our language, and assimilation in their tastes, habits and manners with our people well deserve the care of the state. There is no reason to doubt that persons remote from

these localities, among them office-holders under the general government, visited those plantations before the election, were present at the balloting also and made themselves justly obnoxious to the charge of most unwarrantable interference with the voting and voters.

So foreign to our theory of government, so flagrant an outrage upon the rights of the citizens of the states are attempts of officers of the federal government to interfere with or control their elections, by money or the influence of position, that they would seem to demand the stern rebuke of the people of the state, and to be visited with the severest penalties, and wholly prohibited in the future.

It is stated in the report before alluded to that "in some important particulars little or no regard is paid to the requirements of law in the mode of receiving votes and the transmitting of them to the proper authorities."

The manner of organizing these plantations, conducting the elections, and making the returns, leads to manifold irregularities and require further legislation.

A vacancy will occur in the state's representation in the national senate on the fourth of March next. I invite your early action to provide for that vacancy.

While the duties of the occasion do not require a general statement of our federal relations, whatever point of these relations especially involves the rights or interests of the state, should not escape notice. It is the unquestionable duty of the state, as it prizes its independence, to guard with watchfulness, the boundary beyond which the affirmation of federal authority trenches on its absolute sovereignty.

What is noticeable in this respect is the confessedly new policy of the federal government upon the subject of negro slavery. It is undeniable that the general government has latterly adopted, pursued, and is still pursuing a policy upon this subject at variance with its uniform policy hitherto; and that this policy is at variance also with the sentiments, opinions, and interests of the non-slaveholding states. So far as it is unjustly injurious, or offensive to these states, the right of determined and uncompromising resistance to it, by the people, through the legislature, the press, by public speech, the ballot, and by all constitutional modes whatsoever, may not be questioned; and their deliberate and expressed purpose of resistance to the full extent of adequate protection against it, is not to be denominated extravagant, fanatical, or disloyal.

Nor is it less certain that all attempts of the general government to force this policy upon these states, through the influence of position, office or patronage, is presumptuous tyranny, and merits the rebuke of a justly indignant people.

The acts which characterize this policy are numerous, and have various degrees of obliquity, but all bearing upon them a rank denial, or offensive implication of denial, that the American people are not sovereign over their institutions. Beginning in punic faith, in the vio-

lent abrogation of a time honored compromise, under the pretense of recognizing the authority of the people of the territories to fashion their domestic institutions in their own way, it presented, in its progress, the various and contradictory phases of squatter sovereignty, congressional intervention, popular sovereignty, executive interposition, and culminated, at length, in a bold assumption of authority to force a constitution for a sovereign state upon an unwilling people. The intolerance also of the administration of the general government since the adoption of this policy, towards all who differ in opinion, and declare their disagreement is unparalleled in our history. It is a moderate statement of the fact to say that it has waged an open war, in this respect, upon the sentiments and opinions of the great body of the people of this country, and in favor of a barbarous institution.

Submission and acquiescence to such policy, under such circumstances, would present the poor spectacle of a people cherishing the sentiments of popular liberty without the spirit to maintain it.

If this policy is not wholly misapprehended, the powers of the federal government are used, and are to be used to propagate the institution of negro slavery in the territories—"under the guardianship of the federal constitution."

Slavery is the malignant ulcer at the vitals of the Union. A patriotic conservatism requires that it should be confined upon the ample area it already occupies. I maintain it to be the paramount political duty of the legislature and people of this state, to resist the propagation and extension by the general government, of an institution to which they are, and from the nature of the case ever must be, opposed. The resistance of the states and the general expression of public disapprobation, saved Kansas from the doom of slavery ; and this resistance should be maintained until the aggressive and sectional policy of fostering an odious and local institution is abandoned or overthrown.

LOT M. MORRILL.