

# MAINE STATE LEGISLATURE

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ACTS AND RESOLVES

OF THE

SEVENTY-FOURTH LEGISLATURE

OF THE

STATE OF MAINE

1909

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Published by the Secretary of State, agreeably to Resolves of  
June 28, 1820, February 18, 1840, and March 16, 1842

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AUGUSTA  
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## STATE OF MAINE.

## EXECUTIVE DEPARTMENT.

AUGUSTA, January 28, 1909.

*To the Honorable Senate and House of Representatives:*

I have the honor to respectfully call your attention to the fact that President Roosevelt has recommended that February 12, 1909, the 100th anniversary of the birth of Abraham Lincoln, be observed as a National Holiday. Similar action has already been taken by several of the State Legislatures.

I suggest, therefore, that it would be particularly appropriate for our Legislature, at this time, to set apart the 12th day of February, next, as a State holiday in commemoration of the birth of our lamented Ex-President, and I trust that the matter may have your favorable consideration.

Very respectfully,

BERT M. FERNALD,

## STATE OF MAINE.

## EXECUTIVE DEPARTMENT.

*To the Honorable House of Representatives:*

I have examined House Resolve Number 550 entitled "Resolve in favor of the town of Old Orchard, for receipt of State Treasurer for State tax, to be given said town on valuation of one hundred thousand dollars," and respectfully return the same herewith without my approval.

The valuation placed upon the property of Old Orchard by the board of state assessors for the year 1908 is \$1,102,647. The effect of this Resolve is to place upon the same property for the purposes of taxation a valuation of \$100,000 which is less than ten per cent. of the valuation determined upon by the board of state assessors, thus relieving more than ninety per cent. of the property of the town from state and county taxation. Should this Resolve become a law there is no reason why many other towns in this state should not ask the same favor at the hands of the legislature. I am of the opinion that this resolve would not only establish an undesirable precedent but is not in harmony with the fundamental law of the state relating to equality of apportionment and assessment of taxes. I therefore respectfully decline to sign the same.

BERT M. FERNALD,

Dated March 27th, 1909.

## STATE OF MAINE.

## EXECUTIVE DEPARTMENT.

*To the Honorable House of Representatives:*

I have examined House Resolve No. 645 entitled "Resolve in favor of DeForest Keyes" and respectfully return the same herewith without my approval.

The resolve calls for quite a large sum of money to be paid from the state treasury. Two previous legislatures have declined to favorably consider the subject matter of this resolve. The legal or equitable obligation of the state, if any exist, to acknowledge the claim made by Mr. Keyes is surrounded by much uncertainty and difference of opinion and until that uncertainty can be removed and those differences of opinion can be better harmonized I must respectfully decline to sign the resolve.

BERT M. FERNALD,

Dated April 1st, 1909.

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## STATE OF MAINE.

## EXECUTIVE DEPARTMENT.

*To the Honorable House of Representatives:*

I have examined House Resolve No. 654 entitled "Resolve in favor of Herbert L. Kimball," and respectfully return the same herewith without my approval.

The amount of money involved in this resolve is small but the principle and the circumstances surrounding it are practically the same, if not entirely the same, as those found in the resolve in favor of DeForest Keyes. In view of my position relating to that matter, and for reasons therein stated, I respectfully decline to sign this resolve.

BERT M. FERNALD.

Dated April 1st, 1909.

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## STATE OF MAINE.

## EXECUTIVE DEPARTMENT.

*To the Honorable Senate:*

I have examined Senate bill entitled "An Act in amendment of section one of chapter one hundred and thirty-six of the Revised Statutes relating to sentence in criminal cases," and respectfully return the same herewith without my approval.

This bill seeks to deprive our courts of a certain discretionary power in imposing sentence in criminal cases which has existed in principle since the early history of jurisprudence in this state. While our constitution declares that all power is inherent in the people and that they have therefore an unalienable and indefeasible right to institute government, and to alter, reform, or totally change the same, when their safety and happiness require it, yet the same fundamental law has also declared that the powers of government shall be divided into three distinct departments, legislative, executive and judicial. In our state the functions of the judicial department arise from a peculiar, delicate and intricate admixture of the principles of the common law with the mandates of the legislature. To obtain the best results those principles and mandates should show proper regard each for the other. Judicial discretion, within certain limitations, is one of the foundation stones of the temple of justice. To remove discretionary power from the judiciary in many cases might work hardship or even cruelty. The wise, upright judge has before him all the facts and circumstances in each case, and he should, in my opinion, be allowed a certain range of discretion in forming his judgments unless flagrant abuses of that power arise. The history of the judicial system in this state and the character of the present incumbents thereof, are such as to lead me to the conclusion that the act under consideration, so broad in application and so sweeping in its possible results, is unwise. I, therefore, respectfully decline to sign the bill.

BERT M. FERNALD.

Dated April 2nd, 1909.

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AUGUSTA, April 3, 1909.

*To the President of the Senate and Speaker of the House of Representatives:*

I herewith transmit a list of the Acts and Resolves passed during the present session of the Legislature and approved by me, numbering six hundred and seventy-nine Acts and three hundred and forty-four Resolves.

I have no further communication to make.

BERT M. FERNALD,