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Commonwealth of Massachusetts. The Committee of both Houses to whom were referred the Petitions concerning the Separation of the District of Maine from Massachusetts

General Court of Massachusetts

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Commonwealth of Massachusetts.

THE Committee of both Houses, to whom were referred the Petitions concerning the Separation of the District of Maine from Massachusetts Proper, and forming the same into a separate and Independent State, and also sundry memorials against that measure, beg leave respectfully to

REPORT:

THAT they have considered the subject committed to them, with that deliberation which so momentous a question deserves. A question, whether this great Commonwealth shall be divided, and the connexion which has so long, and so happily existed, shall be forever dissolved. They are sensible that nothing should be done to hasten an event, so important and lasting in its consequences. On the contrary, they would gladly strengthen and promote a union, which has, hitherto, been productive of so much good. This is not a question which concerns the District of Maine alone, but the whole Commonwealth. The Legislature of Massachusetts are called on to consent to relinquish their jurisdiction over one third of her citizens, and the largest portion of her territory. But your Committee have not been deterred by these considerations, from listening to the prayer of the Petitioners, and from recommending such measures as they deem just and expedient, however they may regret the present application.

Has the time arrived, when it is expedient, that the Legislature of Massachusetts should consent to the separation of the District of Maine? Shall the ties which have so long united us, be severed, and Maine take her rank as an Independent State? Your Committee believe that an opinion has long prevailed, in all parts of the Commonwealth, that, at some future time, this event must take place. Maine is separated from Massachusetts Proper, by part of another State. The extremities of this District are four hundred miles from the seat of government. Maine exceeds in territory, most of the States; her population is probably, three hundred thousand. In wealth and commercial importance, she would now hold an honorable rank. There is a great extent of sea coast, with capacious bays, and large, navigable rivers. More than one ninth part of the tonnage of the United States, is now owned in the District of Maine. There are immense tracts of land, the settlement of which, may, perhaps, be better promoted by a local and independent government. These are, probably, some of the

reasons, of an opinion, now almost universal, that the District of Maine must, at a day, not far distant, become a separate and Independent State; and that it is for the people there, to decide, when it shall take place. The proceedings of former Legislatures, have encouraged the opinion, that Massachusetts would not withhold her consent to a separation, on just and equitable conditions, whenever it should appear to be the wish of a decided majority.

Are these the deliberate wishes of a majority of the people in favor of that measure? In May, 1816, pursuant to a resolve of the Legislature, the question was proposed to the people; and there were in favor of a Separation, 10,584—Against it, 6,491.

In September, 1816, when there was a very full vote, the number in favor of a Separation, was 11,969—Against it, 10,347.

Although on every trial, a majority has been found in favor of a separation, your Committee have deliberated, whether they ought, so soon, to propose the question to the people again; and they would not have considered it expedient, had they not reason to suppose that a great change in public opinion, had taken place. They have endeavored to discover the feelings and wishes of the citizens of Maine, from all the evidence they could obtain; and they have ascertained that all the Senators, and more than one hundred and twenty Representatives from that District, are in favor of a separation; and about twenty Representatives against it. They believe also, that the elections were, in a great degree, influenced by this question. There are before the Committee, more than one hundred and thirty petitions from towns and districts, for a separation; and only five remonstrances against it. Many towns opposed to a separation in 1816, have now sent Representatives and petitions in favor of that measure. Your Committee believe there was a general expectation, that the subject would be brought before this Legislature; and that those opposed, have had an opportunity to remonstrate. Shall then, all this evidence, arising from various sources, of a change in public opinion, favorable to separation, pass unnoticed by the Legislature? While the Committee would feel great reluctance in recommending any measure, which might be considered as encouraging a separation; while on the contrary, they would desire that the union between Massachusetts and Maine might be perpetual, they are constrained to believe it their duty, again to ascertain the deliberate wishes of the people. They believe, that to reject so many petitions, flowing from all parts of the District, so far from having a tendency to allay the desire for a separation, would excite agitation and discontent. It would become a question of violent controversies and party commotions; inconsistent with that spirit of calm inquiry and solemn deliberation, which ought to prevail on this great, momentous subject. Should the consent of the Legislature now be withheld, the subject would probably, be presented again, under circumstances much less auspicious; for the present peaceful state of the Commonwealth, is most friendly to a proper consideration and decision of the question. A time of more general tranquillity, cannot be expected.

In the Bill which accompanies this Report, the consent of this Legislature is granted to the separation of the District of Maine, *if it shall appear to be the wish of a decided majority.* Should that be obtained, the Committee rejoice in the belief, that the two great branches of the Commonwealth may now part in that harmony with which they have ever been favored; that the most friendly intercourse will continue between them, and that they and their posterity will cherish the remembrance of our long and happy union. Nor is the hope less grateful, that, if the requisite majority should not be obtained, those who have wished for a separation, will cheerfully acquiesce in the result. That it will be long before the question is again agitated; that the whole Commonwealth will remain contented under the government which has hitherto protected and blessed them; and that all will unite in preserving and increasing the resources, and in promoting the common good of Massachusetts.

In the Bill which is presented, the Committee have endeavored to secure the rights of the Commonwealth, and to propose arrangements, formed on just and equitable principles. All which is respectfully submitted.

(Signed) By Order of the Committee,

JOSIAH QUINCY, *Chairman.*

Commonwealth of Massachusetts.

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In the Year of Our Lord One Thousand Eight Hundred and Nineteen.
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AN ACT

Relating to the Separation of the District of Maine from Massachusetts Proper, and forming the same into a Separate and Independent State.

SECT. 1. Whereas from evidence before the Legislature, it is believed, that a majority of the people of the District of Maine are desirous of establishing a separate and Independent Government within said District : Therefore,

Be it enacted by the Senate and House of Representatives in General Court assembled, and by the authority of the same, That the consent of this Commonwealth be, and the same is hereby given, that the District of Maine may be formed and erected into a separate and Independent State, if the people of the said District shall, in the manner, and by the majority hereinafter mentioned, express their consent and agreement thereto, upon the following terms and conditions : And, provided the Congress of the United States shall give its consent thereto, before the day of next : which terms and conditions are as follows, viz.

First. All the lands and buildings belonging to the Commonwealth, within Massachusetts Proper, shall continue to belong to said Commonwealth, and all the lands belonging to the Commonwealth, within the District of Maine, shall belong, the one half thereof to the said Commonwealth, and the other half thereof, to the State to be formed within the said District, to be divided as is hereinafter mentioned ; and the lands within the said District, which shall belong to the said Commonwealth, shall be free from taxation, while the title to the said lands remains in the Commonwealth ; and the rights of the Commonwealth to their lauds, within said District, and the remedies for the recovery thereof, shall continue the same, within the proposed State, and in the Courts thereof, as they now are within the said Commonwealth, and in the Courts thereof ; for which purposes, the said Commonwealth, may, in all cases, appear and prosecute, as a party, under the name and style of the Commonwealth of Massachusetts, and the right of entry into any land, or of any action for the recovery thereof, for nonperformance of conditions, commonly called, settling duties ; and, also, all like condition, in any bond to the Commonwealth, shall, in case said district become a separate State, be, and are hereby released.

Second. All the arms which have been received by this Commonwealth, from the United States, under the law of Congress, entitled, "An Act making provision for arming and equipping the whole body of militia of the United States, passed April the twenty third, one thousand eight hundred and eight, shall, as soon as the said District shall become a separate State, be divided between the two States, in proportion to the returns of the militia, according to which, the said arms have been received from the United States as aforesaid.

Third. All money, stock, or other proceeds, hereafter derived from the United States, on account of the claim of this Commonwealth, for disbursements made, and expenses incurred, for the defence of the State, during the late war with Great Britain, shall be received by this Commonwealth, and when received, shall be divided between the two States, in the proportion of two thirds to this Commonwealth, and one third to the new State.

Fourth. All other property, of every description, belonging to the Commonwealth, shall be holden and receivable by the same, as a fund and security, for all debts, annuities, and Indian subsidies, or claims due by said Commonwealth; and within two years after the said District shall have become a separate State, the Commissioners to be appointed, as hereinafter provided, if the said States cannot otherwise agree, shall assign a just portion of the productive property, so held by said Commonwealth, as an equivalent and indemnification to said Commonwealth, for all such debts, annuities, or Indian subsidies or claims, which may then remain due, or unsatisfied; and all the surplus of the said property, so holden, as aforesaid, shall be divided between the said Commonwealth and the said District of Maine, in the proportion of two thirds to the said Commonwealth, and one third to the said District—and if, in the judgment of the said Commissioners, the whole of said property, so held, as an indemnification, shall not be sufficient for the purpose, the said District shall be liable for, and shall pay to said Commonwealth, one third of the deficiency.

Fifth. The new State, shall, as soon as the necessary arrangements can be made for that purpose, assume and perform all the duties and obligations of this Commonwealth, towards the Indians within said District of Maine, whether the same arise from treaties, or otherwise; and, as an indemnification to such new State, therefor, this Commonwealth, when such arrangements shall be completed, and the said duties and obligations assumed, shall pay to said new State, the value of thirty thousand dollars, in manner following, viz. The said Commissioners shall set off by metes and bounds, so much of any part of the land, within the said District, falling to this Commonwealth, in the division of the public lands, hereinafter provided for, as in their estimation shall be of the value of thirty thousand dollars; and this Commonwealth shall, thereupon, assign the same to the said new State, or in lieu thereof, may pay the sum of thirty thousand dollars at its election; which election of the said Commonwealth, shall be made within one year from the time that notice of the doings of the Commissioners, on this subject, shall be made known

to the Governor and Council ; and if not made within that time, the election shall be with the new State.

Sixth. Commissioners, with the powers and for the purposes mentioned in this act, shall be appropriated in manner following : The Executive authority of each State shall appoint two ; and the four so appointed, or the major part of them, shall appoint two more ; but if they cannot agree in the appointed, the Executive of each State shall appoint one, in addition ; not, however, in that case, to be a citizen of its own State. And any vacancy happening with respect to these two Commissioners, shall be supplied in the manner provided for their original appointment ; and, in addition to the powers herein before given to said Commissioners, they shall have full power and authority to divide all the public lands within the District, between the respective States, in equal shares, or moieties, in severalty, having regard to quantity, situation and quality ; they shall determine what lands shall be surveyed and divided, from time to time, the expense of which surveys, and of the Commissioners, shall be borne equally by the two States. They shall keep fair records of their doings, and of the surveys made by their direction, copies of which records, authenticated by them, shall be deposited from time to time, in the archives of the respective States ; transcripts of which, properly certified, may be admitted in evidence, in all questions touching the subject to which they relate. The Executive authority of each State may revoke the power of either or both its Commissioners ; having, however, first appointed a substitute, or substitutes, and may fill any vacancy happening with respect to its own Commissioners ; four of said Commissioners shall constitute a quorum, for the transaction of business ; their decision shall be final, upon all subjects within their cognizance. In case said commission shall expire, and either State shall request the renewal or filling up of the same, it shall be renewed or filled in the same manner, as is herein provided for filling the same, in the first instance, and with the like powers ; and if either State shall, after six months' notice, neglect or refuse to appoint its Commissioners, the other may fill up the whole commission.

Seventh. All grants of lands, franchises, immunities, corporate or other rights, and all contracts which have been or may be made by the said Commonwealth, before the separation of said District shall take place, and having or to have effect within the said District, shall continue in full force, after the said District shall become a separate State. But the grant which has been made to the President and Trustees of Bowdoin College, out of the tax laid upon the Banks, within this Commonwealth, shall be charged upon the tax upon the Banks within the said District of Maine, and paid according to the terms of said grant ; and in all grants hereafter to be made by either State, of unlocated lands, within the said District, the same reservations shall be made for the benefit of schools and of the ministry, as have heretofore been usual in grants made by this Commonwealth.

Eighth. No laws shall be passed in the proposed State, with regard to taxes, actions, or remedies at law, or bars, or limitations thereof, or otherwise making any distinction between the lands and rights of property of Proprietors, not resident in, or not citizens of said proposed State, and the lands and rights of property of the citizens of the proposed State, resident therein, and the rights and liabilities of all persons shall, after the said separation, continue the same as if the said District was still a part of this Commonwealth, in all suits pending, or judgments remaining unsatisfied on the _____ day of _____ where the suits have been commenced in Massachusetts Proper, and process has been served within the District of Maine, or commenced in the District of Maine, and process has been served in Massachusetts Proper, either by taking bail, making attachments, arresting and detaining persons, or otherwise, where execution remains to be done; and in such suits, the Courts within Massachusetts Proper, and within the proposed State, shall continue to have the same jurisdiction as if the said District still remained a part of the Commonwealth. And this Commonwealth shall have the same remedies within the proposed State as it now has, for the collection of all taxes, bonds, or debts, which may be assessed, due, made, or contracted, by, to, or with the Commonwealth, on or before the _____ within the said District of Maine; and all officers within Massachusetts Proper and the District of Maine shall conduct themselves accordingly.

Ninth. These terms and conditions, as here set forth, when the said District shall become a separate and Independent State, shall, *ipso facto*, be incorporated into, and become, and a part, of any Constitution, provisional or other, under which the Government of the said proposed State, shall at any time hereafter be administered—subject, however, to be modified or annulled by the agreement of both the said States, but by no other power or body whatever.

SEC. 2. *Be it further enacted by the authority aforesaid,* That the inhabitants of the several towns, districts and plantations in the District of Maine, qualified to vote for Governor or Senators, shall assemble in regular meeting, to be notified by warrants of the proper officers, on the second Monday of July next, and shall in open meeting give in their votes on this question, "Is it expedient that the District of Maine shall become a separate and Independent State, upon the terms and conditions provided in an act entitled, An Act relating to the separation of the District of Maine from Massachusetts Proper, and forming the same into a separate and Independent State." And the Selectmen of the towns and districts, and the Assessors of the plantations, shall, in open meeting, receive, sort, count and declare, and the Clerks thereof respectively, shall record the votes given for and against the measure; and the said Selectmen, Assessors and Clerks respectively, shall make out an exact return thereof, under their hands, and shall seal up and transmit the same to the office of the Secretary of this Commonwealth, on or before the second Monday of August next. And all returns not then made shall be rejected in

the counting, and the Governor and Council shall open and examine the said returns, made as aforesaid, and shall count the votes given on the said question; and the Governor shall by public Proclamation, to be made as soon as the state of the votes can be ascertained, after the said second Monday of August next, make known the result, by declaring the number of votes appearing in favor of the separation of said District, as aforesaid, and the number of votes appearing against it. And, if the number of votes for the measure shall exceed the number of votes against it, by fifteen hundred, then, and not otherwise, the people of said District shall be deemed to have expressed their consent and agreement, that the said District shall become a separate and Independent State, upon the terms and conditions above stated; and in case of such majority, the Governor, in his said Proclamation, shall call upon the people of said District to choose Delegates to meet in convention for the purposes, and, in the manner herein after provided; and in addition to publishing said Proclamation, in one or more of the public newspapers printed in Boston, and in the District of Maine, copies of the same duly authenticated, shall, as soon as can conveniently be done after the making of the same be transmitted to the office of the Clerks of Common Pleas, in the several counties of the District of Maine, for public examination; and one such copy, at least, shall be transmitted to the Convention of Delegates herein after mentioned, when said Convention shall be formed.

SEC. 3. *Be it further enacted,* That if it shall be declared by said Proclamation, that the said majority of fifteen hundred votes appeared by the said returns to be in favor of the separation of the said District as aforesaid; the inhabitants of the several towns and districts, now entitled to send one or more Representatives to the General Court, and all other incorporated towns, shall, on the third Monday of September next, assemble in town meeting, to be notified by warrant of the Selectmen, and shall elect one or more Delegates (not exceeding the number of Representatives) which such town is now entitled to, each town however to be at liberty to elect at least one, to meet Delegates from other towns within the said District in Convention, for the purpose of forming a Constitution or Frame of Government for the said District. And at such meeting of the said inhabitants, every person qualified to vote for Senators, shall have a right to vote in the choice of Delegates. And the Selectmen shall preside at such meeting, and shall in open meeting receive, sort, count and declare the votes, and the Clerk shall make a record thereof in presence of the Selectmen, and in open meeting. And fair copies of the said record shall be attested by the Selectmen and Town Clerk, and one such copy shall be delivered by the Selectmen to each of the persons duly elected a Delegate.

SECT. 4. *Be it further enacted,* That the persons so elected Delegates, shall meet in convention at the Court-House in Portland, in the County of Cumberland, on the second Monday of October next. and they shall be the Judges of the returns, and elections of their own members, and such may adjourn from time

to time, and sixty of the persons elected shall constitute a quorum, for the transaction of business, and the Delegates shall as soon as may be, proceed to organize themselves in convention, by choosing a President and such other officers as they may judge expedient, and establishing proper rules of proceedings; and it shall be the duty of the said convention, to apply to the Congress of the United States, for its assent to be given before the day of January next, that the said District, should be admitted into the Union, as a separate and independent State. And it shall also be the duty of the said convention, to form a Constitution, or frame of government, for said new State, and to determine the style and title of the same; and such Constitution, when adopted, and ratified by the people of said District, in the manner herein-after mentioned, shall, from and after the day of 1820, (the consent of the Congress of the United States, then being first had as aforesaid,) be the Constitution of said new State. And the said convention, shall, as soon as may be, after having formed such Constitution, or frame of government, for such new State, cause the same to be published, and sent to the several towns, districts, and plantations, within the said District of Maine; and there shall be a meeting of the inhabitants, in each of said towns, districts, and plantations, to be called and warned by the selectmen, and assessors respectively, in due course of law, and on the day named by said convention, at which meeting, every male inhabitant, having the personal qualifications, herein declared requisite in the election of Delegates to said convention, shall have a right to vote; and the people so assembled, shall give in their votes in writing, expressing their approbation, or disapprobation of the Constitution so prepared, and proposed by said Convention. And the selectmen of the several towns, and the assessors of the several districts and plantations respectively, shall preside at such meetings, and shall receive the votes of all the inhabitants duly qualified as aforesaid, and shall sort, and count them in the open meeting of the town, district, or plantation, and the same, shall be then and there recorded in the books of the town, district, or plantation, and a fair copy of such record, shall be attested by the selectmen or assessors, and the clerk of the town, district, or plantation, respectively, and shall be, by the said selectmen, or assessors, transmitted and delivered to the said Convention, or to the President thereof, for the time being, or to any Committee appointed to receive the same, on or before the first day of next; on which day, or within ten days thereafter, the said Convention shall be in session, and shall receive and count all the votes returned, and declare and publish the result; and if a majority of the votes so returned, shall be in favour of the Constitution proposed, as aforesaid, the said Constitution shall go into operation according to its own provisions; otherwise the Constitution of Massachusetts, with the addition of the terms and conditions herein provided

shall be, and be considered as the Constitution of the said proposed State, in manner as hereafter provided. And to the end, that no period of anarchy may happen to the people of said proposed State, in case a new Constitution shall not be so adopted and ratified by the people of said District of Maine, the present Constitution of the Commonwealth of Massachusetts, shall, with the terms and conditions, aforesaid, and with the exception hereinafter made, be provisionally, the Constitution, or frame of government for said District, except only such parts of said Constitution of Massachusetts, as relate so the style or title of said state, or may be otherwise inconsistent with, or repugnant to the situation and condition of said new State; and except, that the people of said District shall choose in their Senatorial Districts, as now established, three times the number of Senators now allowed them, and that the Legislature shall choose such a number of Counsellors, not exceeding nine, as they shall determine to be proper. And the said convention shall designate the place for the first meeting of the Legislature of said new state, and for the organization of its government; and shall appoint a Secretary, *pro tempore*, for said new State, and the said Convention shall regulate the pay of its members, and the person, authorized by said Convention, may draw upon the Treasury of the Commonwealth for the amount of the pay roll, not, however, to exceed the amount of the money paid into the Treasury, by the several banks within said District, for the tax upon the same, due and payable on the first day of October next, and the sum or sums so drawn for and paid out of the Treasury, shall be a charge upon the new State in the division of the property, provided for in the fourth of the term conditions stated in the first section of this act.

SECT. 5. *Be it further enacted*, That until a Governor of the proposed State, shall be chosen and qualified according to the Constitution which may be in operation in said State, the person last chosen President of the said Convention, shall, from and after the _____ day of _____ next, have all the power of the Governor and Council under the Constitution of Massachusetts, until a new Governor shall be chosen and qualified in the said proposed State; excepting only, that the said President shall not have the power to remove from office any officer who may be duly qualified, and executing the duties of his office according to the intent and meaning of this act.

And in order that there may be no failure of justice, and that no danger may arise to the people of the said District of Maine after the _____ day of _____ next, and before the new government of the said State shall be fully organized, therefore,

SECT. 6. *Be it further enacted*, That all the laws which shall be in force within said District of Maine upon the said _____ day of _____ next, shall still remain, and be in force, within the said proposed State, until altered or repealed by the government thereof, such parts only excepted as may be in-

consistent with the situation and condition of said new State, or repugnant to the constitution thereof. And all officers, who shall, on the said day of next, hold commissions, or exercise any authority within the said District of Maine, under the Commonwealth of Massachusetts, or by virtue of the laws thereof, excepting, only the Governor, Lieutenant Governor and Council, the Members of the Legislature and the Justices of the Supreme Judicial Court of the said Commonwealth of Massachusetts, shall continue to have, hold, use, exercise and enjoy all the powers and authority to them respectively granted or committed, until other persons be appointed in their stead, or until their respective offices shall be annulled by the government of the said proposed State. And all Courts of Law whatsoever, within the said proposed State, excepting only the Supreme Judicial Court, shall proceed to hear and determine all causes, matters and things, which are or may be commenced or depending before them respectively upon the

next, or at any time afterwards, and before the government of the said proposed State shall establish new Courts within the same, and shall continue from and after the said

next, to exercise the like power and authority, and in like manner as they now by law may do, until such new Courts shall be so established in their stead.

SEC. 7. *Be it further enacted*, That all actions, suits, and causes, civil and criminal, and all matters and things whatsoever, that shall on the said day of next, be in any manner depending in the Supreme Judicial Court of the said Commonwealth of Massachusetts, then last holden within any county in the said District of Maine, and all writs, recognizances, and other processes whatsoever, that may be then returnable to the said Supreme Judicial Court, shall be respectively transferred, and returned to, have day in, and be heard, tried, and determined in the highest Court of Law that shall be established in the said new State, by the government thereof; and at the first term of such Court, that shall be held within the county in which such action, writ, process, or other matter or thing, may be so pending or returnable. And in all cases of appeals from any Circuit Court of Common Pleas, or Probate, or other Court, which shall be made after the said

next, in any action, cause, or suit whatsoever, and which would by law be made to the said Supreme Judicial Court thereof; it shall be sufficient for the appellant to claim an appeal, without naming or designating the Court appealed to; and such appeal shall be entered at the Supreme or Superior Judicial Court, or highest Court of Law, to be established by the government of the said new State, which shall first thereafter be held within or for the county in which such action, cause, or suit may be pending, and shall then be heard, tried and determined according to law.

Provided however, That nothing contained in this section shall be understood or construed to control in any degree, the right of the people of the said new State, or the government thereof, to establish Judicial Courts, in such manner, and with such authority as they shall see fit; nor to prevent the said people or their government from making any other provisions, pursuant to their Constitution, and not repugnant to the terms and conditions above set forth, respecting all the said actions, suits, processes, matters and things herein above mentioned, as they shall think most proper, to prevent the discontinuance thereof, and to avoid any delay or failure of justice.