

MVB veto message on Rebecca Albro's legacy, 30 January 1829

Albany

Jan. 30th 1829.

TO THE ASSEMBLY.

Gentlemen,

I cannot approve of the bill entitled an act "to allow Rebecca Albro, the wife of Wait Albro, of the town of Beekman, in Dutchess co, to receive certain legacies left her by her grandfather," and do therefore return the same to the assembly with these my objections.

The petition upon which this bill is founded, sets forth that the petitioner was deserted by her husband, in the month of August last, he having previously conducted himself in a very exceptionable manner; that she does not know where he now is, and that since that period, a legacy has been left to her by her grandfather; upon these *ex parte* allegations, sustained to the satisfaction of the committee, it is proposed by the bill to divest the husband of the petitioner of his acknowledged legal rights, without giving him an opportunity to be heard in their defence. I have no reason to doubt the equity of this application, or to question the good faith in which it is made, and my objections to the proposed relief do not, therefore, arise from a supposition that in this case positive injustice will be done to the absent party. It is because I consider the provisions of the bill objectionable in principle, and from an apprehension of its injurious influence on the score of precedent, that I am constrained to withhold my approval thereof. The constitution declares that "no member of this state shall be disfranchised or deprived of any of the rights or privileges secured to any citizen thereof, unless by the law of the land, or the judgment of his peers." Although the general object of this provision was designed for the protection of our citizens charged with offences, its spirit is justly applicable to every case of private right. By "the law of the land," is to be understood the general law applying equally to all citizens, and to be administered through the instrumentality of the judicial power, and not to mere private acts

without the intervention of previous judicial enquiry. To refuse legislative aid in every case where competent relief can be afforded by the established judicial tribunals of the country, ought therefore to be regarded as an established axiom in legislation. It will be seen by the communication of the Chancellor, herewith transmitted, that such relief can be afforded in the present case. It would doubtless save the petitioner some expense to obtain redress through the channel she has selected, and if, in other respects allowable, our feelings for her sex and condition should induce us to grant it. But that consideration is not sufficient to justify us in unnecessarily and definitively passing upon the rights of a citizen in his absence, and without an opportunity of being heard, and in confounding the appropriate duties of separate departments of the government, the action of which should be kept distinct as far as may be practicable,—It is not intended by these objections to raise the abstract question of the power of the legislature in the premises. I am aware that many private acts have already been passed, that conflict with the principle I advance; but I am also aware that the increase of legislation upon private rights, under various and imposing representations of hardships and inconvenience, has in the judgment of observing and respectable men, become an evil calling for restraint rather than extension.

M.V. BUREN.

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