

MAINE STATE LEGISLATURE

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Sixty-Seventh Legislature.

HOUSE.

No. 337.

STATE OF MAINE.

IN THE YEAR OF OUR LORD ONE THOUSAND EIGHT HUNDRED
AND NINETY-FIVE.

AN ACT to enforce the provisions of section three of chapter four hundred one of the Private and Special Laws of 1864.

Be it enacted by the Senate and House of Representatives in Legislature assembled, as follows:

SECTION 1. The governor, state treasurer and land agent are hereby directed to ascertain as soon as may be during the present year (1895) what lands of those conveyed to the European and North American Railway by deed of the governor of the state dated May 13, 1868, are suitable for settlement, and having done so, shall forthwith, and as early as during the course of the month of January, 1896, notify the European and North American Railway Company or any other corporation, individual or individuals holding any of the lands or any fractional part

11 or parts thereof, (except those who may be in possession
12 and occupation of farms which were included in the
13 premises conveyed by said deed, at the date of approval
14 of this act,) which are considered by them suitable for
15 settlement to cause the same forthwith to be surveyed into
16 lots, not exceeding one hundred sixty acres to any one lot
17 and put into the market for settlement at a price not
18 exceeding one dollar per acre, on condition of a continued
19 residence thereon for five years, and performance of such
20 settling duties as were on the twenty-fourth day of March,
21 1864, required by the state. Such corporation or corpo-
22 rations, individual or individuals, shall have until Septem-
23 ber 1, 1896, to make and complete their surveys and other-
24 wise fully comply with the requirements of this act.

SECT. 2. Should any corporation or corporations, indi-
2 vidual or individuals, fail to comply with the provisions of
3 this act, said corporation or corporations, individual or
4 individuals, shall forfeit the sum of two dollars for every
5 acre by it or them, him or them held of such lands, to be
6 recovered by an action of debt in the name of the state
7 and a lien is hereby created upon said lands for the amount
8 of the penalty aforesaid and legal costs to be enforced by
9 attachment in the suit aforesaid.

SECT. 3. It shall be the duty of the governor to ascer-
2 tain on or about the first day of September, 1896, what
3 corporation or corporations, individual or individuals, have
4 failed to comply with the foregoing provisions of this act,
5 and forthwith, and as early as October 1, 1896, shall direct
6 the attorney-general to bring suit or suits to recover the
7 penalty or penalties aforesaid.

MAJORITY REPORT.

The undersigned a majority of the Committee on Judiciary which was instructed by an order of the legislature to inquire whether the European and North American Railway Company has ever complied with the conditions upon which the public lands of the State were granted said corporation by acts of the legislature of 1864 and 1868 and if such conditions have not been complied with, what legislation should be had or steps taken to restore possession of said lands to the state, and if said State has no longer title to said lands upon what terms and conditions a part or the whole of said lands may be obtained for settlement from said corporation according to the provisions of said acts and report to the legislature by bill or otherwise, have had the same under consideration, and ask leave to report that legislation thereon is inexpedient.

SPOFFORD,
SAVAGE,
HIGGINS,
LARRABEE,
NOBLE,
HAINES,
KNOWLTON.

MINORITY REPORT.

The Committee on Judiciary, which was instructed by an order of the Legislature to inquire whether the European and North American Railway Company has ever complied with the conditions upon which the public lands of the State were granted said corporation by acts of the Legislature of 1864 and 1868, and if such conditions have not been complied with, what legislation should be had, or what steps taken to restore possession of said lands to the State, and if said State has no longer title to said lands, upon what terms and conditions a part or the whole of said lands may be obtained for settlement from said corporation according to the provisions of said acts and report to this Legislature by bill or otherwise, have had the same under consideration, and ask leave to report the accompanying bill, "An Act to enforce the provisions of section three of of chapter four hundred and one of the Private and Special Laws of 1864, entitled 'An Act to provide means for the defence of the northeastern frontier.'"

P. C. KEEGAN.

STATEMENT OF FACTS.

Having arrived at a different conclusion from the majority of the Committee, the undersigned begs leave to present the following reasons therefor. In 1863, the Legislature passed a resolve "that Maine expects and earnestly demands that measures be taken at once by the general government for the protection of its northeast frontier and that this can be accomplished only by a military railroad from Bangor to the St. John river."

It is unnecessary to assert that the north-east frontier was in no greater danger of invasion then than now, and that this very innocent resolve was intended to pave the way for what followed, viz., the obtaining of the amount due from the general government to the states of Maine and Massachusetts for land ceded by the treaty of Washington in 1842, which netted more than \$700,000 in cash and all of the public lands belonging to the State.

Therefore in 1864, the act entitled "An act to provide means for the defence of the northeastern frontier" was passed. The first section appropriates in aid of the construction of such a line of railway as above referred to, "the proceeds of the sale of timber on ten townships of the public lands of this State" and "all moneys, securities, or lands received on account of the claims of Maine upon the United States government which accrued prior to 1860."

Section three says, "In case the commonwealth of Massachusetts shall assign and transfer to the European and North American Railway Company, or to the State of Maine in trust for said company, the claims jointly held by her with Maine against the general government, to aid the construction of said railroad and also release and discharge or assign and transfer the balance due from the State of Maine, for the purchase of her interests in the public lands lying in Maine, under date October 5, 1853, it shall be lawful for the governor, State Treasurer and Land Agent, to transfer to said

company, all the public lands lying on waters of the Penobscot and St. John river for the uses and purposes set forth in this act.”

Further on in the same section it says, “And it is further provided that all lands conveyed to said company under this act, which are in the opinion of the governor, state treasurer and land agent, suitable for settlement, shall be surveyed into lots by said company, of suitable sizes for the purpose of settlement, not exceeding one hundred and sixty acres to any one lot, which lands shall be open to settlers at a price not exceeding one dollar per acre on condition of a continued residence thereon for five years, and performance of such settling duties as are now required by the State. And said company is charged with the duty of encouraging immigration into the State, and shall be required to appoint a suitable emigrant agent, and annually publish such plans, statements and other reformation as shall give to the public a better knowledge of the extent, value and situation of the public lands of Maine now open for settlement, and cause this information to be printed in our own and other languages, and distributed into other states of this Union and into foreign lands. And the Legislature of this State shall have the right at all times to inquire into the manner in which these trusts are executed and to pass any laws that may be necessary and to impose fines and penalties to secure a compliance with the provisions, liabilities and duties hereinbefore set forth and enjoined.”

In 1863, the European and North American Railway was given the right “to hold timber and lands by grant from the State of Maine in accordance with the provisions of the act approved March 24, 1864, entitled ‘An Act to provide means for the defence of the northeastern frontier’ and to sell and convey and to mortgage the same for the purpose of raising money for the construction of its main line of railway in this State or the branches thereof.

In 1886 the governor of the State was authorized and empowered to transfer and convey by deed to the European

and North American Railway Company all the timber and lands belonging to the State situated upon the waters of the Penobscot and St. John river, to be used by said company to aid in the construction of its line of railway as contemplated and provided for in an act entitled 'An Act to provide means for the better protection of the northeastern frontier' approved March 4, 1864, and an act approved February 21, 1866 and subject to all reservations contained in, and the obligations imposed by said act" and with same exceptions very advantageous to the company, but not material to the question at issue.

The conveyance was duly made by deed of the Governor dated May 13, 1868, and in terms was made subject to the acts of 1864 and 1866.

In 1871 an act was passed entitled "An act to promote immigration into this State," calling upon the European and North American Railway Company, to fulfil the conditions of the act of 1864, imposing fines and penalties, and directing the Attorney General to prosecute the company for its neglect. In 1879 a "resolve to facilitate the settlement of the wild lands of Maine," was passed in the following terms :

"Resolved that the governor, state treasurer and land agent be requested to notify the European and North American Railway Company that so much of the lands conveyed by the State to said company as in the opinion of the governor, state treasurer and land agent are suitable for settlement, shall be surveyed within a reasonable time by said company into lots of suitable size for settlement not exceeding one hundred and sixty acres in any one lot, which land shall be open to settlers at a price not exceeding one dollar per acre in accordance with the provisions of chapter 401 of the Public Laws of 1864 and the conditions of the deed from the State to said company dated May 13, 1868, granting to said company all the public lands lying on the waters of the Penobscot and the St. John rivers." So far all efforts to secure a response from the company have failed. It is believed that the time has come when land should be obtained

for settlement from some source. The undersigned knows of no better way than to require the European and North American Railway Company or those claiming under it to comply with the conditions under which they hold the lands conveyed to them by deed of May 13, 1868, and for that purpose begs leave to report the accompanying act which is herewith submitted.

PETER C. KEEGAN.

STATE OF MAINE.

HOUSE OF REPRESENTATIVES, }
March 12, 1895.

Tabled pending acceptance of either report by Mr. KEEGAN of Van Buren and with papers accompanying ordered printed.

W. S. COTTON, *Clerk.*