

MAINE STATE LEGISLATURE

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Charles F. Rice

DOCUMENTS

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THE LEGISLATURE,

OF THE

STATE OF MAINE,

DURING ITS SESSION

A. D. 1840.

AUGUSTA:

WM. R. SMITH & CO., PRINTERS TO THE STATE.

1840.

TWENTIETH LEGISLATURE.

NO. 25.

SENATE.

REPORTS

ON THE

P E T I T I O N

OF

WILLIAM EMERSON.

[Wm. R. SMITH & Co.....Printers to the State.]

REPORT.

IN SENATE, Feb. 26, 1840.

THE Committee to which was referred the petition of William Emerson, have had the subject of said petition under consideration and ask leave to

REPORT

a Resolve, with the following statement of facts.

It appeared that the petitioner with others, in February, 1835, purchased of the State a township of land containing nineteen thousand eight hundred and twenty-five acres, said township being No. 3 in the 13th Range of townships west from the east line of the State, for the sum of three dollars twenty-five cents per acre, amounting in the whole to the sum of sixty-four thousand four hundred thirty-one dollars.

This township prior to the sale had been lotted into mile squares, and the quantity of timber on the whole tract estimated at eighteen millions; and it appeared from the records in the Land Office, that the streams down which this timber would pass to market were in 1831, not navigable, and that the value of the tract depended principally upon the

quantity of timber on the township, and the facilities for getting the same to market.

Col. Hodgdon, the late Land Agent, stated to the Committee, that the records of the office were not exhibited to the purchasers at the time of the sale, that he stated to them the amount of timber estimated to be on said tract; and that he supposed, and he so understood the impression on the Penobscot, that although there were difficulties attending the navigation of the west branch, that those then operating on the lands in the vicinity of this township, would make the necessary improvements, and that the petitioner and others, after that year would obtain their lumber without difficulty.

Col. Hodgdon also stated to the Committee, that when he sold this township, he demanded the price for which it sold, not because he believed it was worth that sum, but because of the price which timber lands were then commanding in the market; and that in a conversation with the Committee on State Lands, of that year, they recommended a sale at a reduced price, which recommendation he should have observed had he not been able to sell for the price aforesaid.

It was the opinion of Col. Hodgdon, and also of the Commissioner appointed under the Resolve of last year, to take evidence in these cases, and who made a report in this case, that this township was worth the sum of one dollar and no more; and the

Committee were of the opinion that it would not exceed in value, the tract sold the past season, to a Mr. Norcross, on the adjoining township, at one dollar and twenty cents per acre.

This township not having been operated upon, the Committee had no direct evidence touching the accuracy of the estimate made by the surveyor or of the quality of the timber on this tract; it appeared however to the Committee, that the Norcross purchase, was ten thousand acres, in selected lots on the township No. 4, Range 13, which adjoins this township north. That upon said ten thousand acres there was estimated to be sixteen millions, six hundred and forty thousand, the principal part of which was upon Pine stream, which stream passes through this township and through the principal body of timber on it. One of the Committee stated, that he had been up Pine stream, on this township, about a mile from the north line, and that he thought the timber on this township was larger than the timber on No. 4, and that the tops were dead.

It was also stated to the Committee, that the proprietors of No. 4 were now operating on said township with six teams, that the timber was more defective than was expected, and that the scaler of the logs cut, who was selected by the State, stated that they would not be able to obtain more than three millions the present winter, and that the

residue would not be equal to the amount obtained this year.

The difficulties attending the navigation of the west branch, the Committee presume will sufficiently appear in connection with the "Seboomook Sluiceway" bill; and it was in evidence that lands in this vicinity on the west branch, were not worth more than one half as much as lands, of an equal value, in other respects, on the east branch, at the same distance from market.

The petitioner has paid into the Treasury of the State, in cash, the sum of twenty-five thousand seven hundred and fifteen dollars, and if you add interest on that sum from the date of the respective payments, it will be found to exceed the sum of thirty-three thousand dollars, being a fraction more than two dollars and sixty-six cents per acre, and more than two dollars an acre, for the five-eighths, if interest be not included. All which is respectfully submitted.

By order of a majority of the Committee on State Lands.

FRANKLIN SMITH, *Chairman.*

STATE OF MAINE.

RESOLVE in favor of **William Emerson**.

RESOLVED, That the **Land Agent** be, and he
2 hereby is authorized to receive from **William**
3 **Emerson**, a conveyance of three-eighths of town-
4 ship numbered three in the thirteenth range,
5 west of the east line of the **State**, and that
6 whenever he shall be satisfied that the **State**
7 have a perfect title to the same, he is hereby
8 authorized to cancel and deliver to said **Emerson**,
9 the promissory notes of the said **Emerson**
10 now in the **Land Office**, which were given by
11 said **Emerson** to the **State** for the township
12 aforesaid.

MINORITY REPORT.

The minority of the Committee on State Lands, disagreeing with the majority of said Committee in their Report submitted to the Legislature on the subject of the petition of William Emerson, ask leave to

R E P O R T

the following statement of facts :

The petitioner, with Amos M. Roberts, Isaac Farrar and Norcross & Mason, in February, 1835, purchased of the State a tract of timber land situated on the west branch of the Penobscot river, being township No. 3, Range 13 west from the east line of the State, containing 19,825 acres, at the sum of three dollars and twenty-five cents per acre, and amounting to \$64,431 26—of which sum, \$21,477 08 was paid in cash, and three joint and several notes of \$14,318 06 each, making \$42,954 18, were taken for the balance, and a *conditional* deed given to the purchasers. One fourth part of the first note and interest, which became due in 1836, was paid by Mr. Farrar, which is the only payment that has been made on said notes.

The whole amount received by the State, is \$25,716 16, and the balance due on the 17th day of January, 1840, with interest, is \$51,638 79.

The petitioner was the original purchaser of but one fourth of this township, and his proportion of the cash payment would be \$5,369 25, and of the notes given to the State, \$10,738 55; but he subsequently, by an arrangement entered into with the other purchasers, agreed to, and did assume the payment to the State, of the whole amount, for which he received an equivalent of them.

It appears from the records in the Land Office, that on the 5th day of June, 1835, Mr. Hodgdon, then Land Agent, conveyed by a deed of release to Ichabod Bartlett and others, three fourths of this township—and that he also on the 1st day of December, 1837, conveyed to William Emerson by deed of release, the remaining quarter of said tract, and on the same day cancelled and gave up the joint and several notes of Emerson, Roberts, Farrar and Norcross & Mason, and a note signed by Mr. Emerson alone was taken in lieu thereof, secured by a mortgage of three-eighths of said township, together with certain house lots and Pier Company shares in the city of Bangor.

It further appears that three out of the four original purchasers, sold out their interest, being three fourths of said township, about the first of June, 1835, for a consideration much exceeding the amount they were to pay the State—and that the petitioner subsequently purchased another eighth of

said tract, at one dollar per acre advance on the original price.

By reference to the field notes and survey, returned to the Land Office in 1831, the Committee find that this township was surveyed in that year, by Joseph L. Kelsey, and by him estimated to contain about eighteen millions feet of merchantable pine timber of the first quality—that the facilities of running the same to market, would be difficult and expensive, by reason of formidable obstructions in the west branch of the Penobscot river, and it was in evidence before the Committee, that these obstructions still remained—that without the expenditure of a large amount in removing the same, the timber on this township could not be run to market. That the timber lands situated in the vicinity of this township, were of less value in consequence thereof, than lands of an equal value in other respects, situated on the east branch of the same river and of equal distance from market.

There having been no operations on this township, the principal evidence the Committee had of its value, was from the report of Mr. Kelsey, before alluded to. A member of the Committee, stated that he was well acquainted with that gentleman, and considered him a man of good judgment in estimating the quantity and quality of timber, on a township, and that Mr. Kelsey informed him, that

his estimate on this tract, would hold out better than the one he had made on No. 4, which adjoins this, and is watered by the same stream. He further stated to the Committee that he had been up the stream, on this township, a short distance from the north line, and he thought the timber larger but with more dead tops than on No. 4, but of equal value per acre, to the ten thousand acres purchased by Norcross.

The field notes of Mr. Kelsey, containing a full description of the quality of the soil, the quantity and quality of the timber, the facilities of running the same to market, were in the Land Office at the time of sale, and there was no evidence before the Committee that they were not examined by the purchasers, and their shrewdness and experience in the purchase and sale of timber lands, seemed to admit of a doubt in the minds of the Committee, whether they would make a purchase of that magnitude, without some knowledge of its value.

It appeared by a witness before the Committee, that there were six teams now operating on the tract purchased by Norcross, where there was estimated to be over sixteen millions feet of timber, and from information which he derived from the person employed to scale the timber on said tract, they would not obtain the present season more than three millions, and what would remain after this

years' operation, would not exceed the quantity obtained.

It was stated by the Land Agent, that in disposing of the selected lots in No. 4, he was induced by the unfavorable reports, as to the quality of the timber—the difficulties attending its transportation to market, together with a promise on the part of the purchaser, to take an interest in the Chesuncook corporation for clearing out the obstructions in the west branch of the Penobscot river, thereby increasing the value of the States' land in that section of the State, to sell the same to the said Norcross, at one dollar and twenty cents per acre.

In the Report of the Commissioner appointed under the Resolve of the 13th March, 1839, "to take evidence in certain cases," Col. Hodgdon states, "that in putting the price of three dollars and a quarter upon No. 3, I was influenced rather by the prices that lands bore, than by my opinion of its intrinsic value. At the time the price was fixed at the Land Office, the whole subject was referred to the Land Committee, and they recommended a lower price, and the tract was put into market with the understanding between the Land Committee and myself, that if the town was not taken up at three dollars and a quarter, the price should be reduced." Col. Leavett, states that in his opinion, there is not much difference in the value of the two

townships, No's. 3 and 4.—Is acquainted with Mr. Kelsey, who surveyed No. 3, and should have confidence in his reports. The Commissioner however expresses no opinion whatever, of the value of this township.

The subject of this petition, is but one of the many land transactions between the State and the petitioner, and your Committee can see no good reason why if we legislate on this, that we may not go a little farther back, and take into consideration those bargains, where the petitioner has purchased tracts of timber lands of the State, at the rate of from sixteen to thirty-three cents per acre.

The amount paid by the petitioner in cash, for No. 3, is \$5,369 25 or 27 cents per acre. The whole amount of cash received by the State, of all the purchasers, is \$25,716 16, or one dollar and thirty cents per acre.

All which is respectfully submitted.

FRANKLIN SMITH,
JOHN TRUE,
G. L. BENNETT.

STATE OF MAINE.

IN SENATE, February 26, 1840.

This Resolve was read once, and

ORDERED, That three hundred copies of the same, with the statement of facts submitted by the majority and also the minority of said Committee, be printed for the use of the Legislature.

[Extract from the Journal.]

Attest : WILLIAM TRAFTON, *Secretary.*