

MAINE STATE LEGISLATURE

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DOCUMENTS

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THE LEGISLATURE

OF THE

STATE OF MAINE,

DURING THE

EXTRA SESSION OF 1853, AND SESSION OF 1854.



Augusta:

WILLIAM T. JOHNSON, PRINTER TO THE STATE.

1854.

THIRTY-THIRD LEGISLATURE.

HOUSE.

No. 10.

REPORT AND RESOLVES

IN RELATION TO

CLAIMS UNDER THE TREATY OF WASHINGTON.

STATE OF MAINE.

THE committee on State Lands and State Roads, to which was referred the petition of William Black, the petitions of Samuel Leavitt, of James Stickney, of Sanford Noble, and the petition of Joseph Nelson and sixty others, have had the same under consideration, and ask leave to

REPORT :

That for many years prior to the treaty of Washington, negotiated in 1842, the jurisdiction and ownership of a large portion of the northern part of this state, including nearly all of the county of Aroostook, was in dispute, and a subject of controversy, between the government of Great Britain and that of the United States. The effect of the controversy was to retard the settlement of the country bordering on the St. John river, and the Aroostook river in said county, and to render

titles to lands there uncertain. But notwithstanding this uncertainty as to jurisdiction and ownership, very numerous settlements were made upon the borders of the St. John, and upon some portions of the Aroostook river, near the present line of the state. At the time the negotiation of the treaty was pending at Washington, the condition of these settlers was, by a memorial on the part of the agents of Maine, presented to the consideration of the plenipotentiaries who were charged with the negotiation, and an article was inserted in the treaty, being the 4th article in these words:

“All grants of lands heretofore made by either party within the limits of the territory which by this treaty falls within the dominions of the other party, shall be held valid, ratified and confirmed to the persons in possession under such grants, to the same extent as if such territory had by this treaty fallen within the dominions of the party by whom such grants were made; and all equitable possessory claims, arising from a possession and improvement of any lot or parcel of land by the person actually in possession, or by those under whom such person claims, for more than six years before the date of this treaty, shall in like manner be deemed valid and be confirmed, and quieted by a release to the person entitled thereto, of the title to such lot or parcel of land so described as best to include the improvements made thereon; and in all other respects the two contracting parties agree to deal upon the most liberal principles of equity with the settlers actually dwelling upon the territory falling to them respectively; which has heretofore been in dispute between them.”

No distinction is made in the treaty between persons claiming under a contract of sale, and those whose only title was a possession and occupation, such as is described in the treaty. The parties to the treaty were the two governments. Each was bound to give to the settler his title to his land, which should fall within its boundaries. The lands subject to be so

claimed, upon the United States side of the boundary line, did not belong to the United States. The fee was in Maine and Massachusetts, or in grantees of those states. Although the United States were bound by the treaty to give the title to the claimants under the treaty, no mode was provided in the treaty by which it was to be ascertained who were entitled to such grants, or in what manner the location of these lots should be made. The jurisdiction of the soil and territory was in this state, and the duty of securing to its citizens their rights under the treaty, would seem very obviously to belong to the state. In accordance with this view, commissioners were appointed on the part of Maine and Massachusetts, under resolves of the legislature of each state, to examine the claims under the treaty, and make locations to satisfy such grants and possessory rights. The commissioners made locations of grants upon the St. John river amounting to 52,300 acres; and to satisfy claims of possessory rights, 14,941 acres. In townships on the Aroostook river, belonging some to Maine and some to Massachusetts, they set off to claimants 6,426 acres; making in all 73,668. The commissioners having made their report, conveyances were made by the two states to most if not all of these claimants according to the report. The expenses of the commission were promptly paid by the United States. Resolves were passed April 7, 1845, declaring the sense of the legislature of Maine to be, that in equity and good faith, an obligation rested on the United States to remunerate the states of Maine and Massachusetts for their pecuniary sacrifice necessarily made in complying with the treaty. These resolves were by Governor Anderson communicated to the president, but so far as the committee are informed, no progress was thereby made towards a settlement of the claim. The claim was again brought before the senate of the United States by the Hon. J. W. Bradbury, senator from this state, in a report from the committee on the judiciary made in the senate by him on the 29th of December, 1852, in which is set forth a very able and

lucid statement of the facts and reasonings in support of the claim. A bill was reported in the senate in accordance with the views of the committee, for the payment of the claim, but it was not reached in the order of business before the close of the session, and for that reason was not acted upon.

In addition to the quantity of land so conveyed, the commissioners reported that they had examined claims which in their opinion were included in the treaty, but not in the resolves under which they acted, because the claimants had already acquired a title to their lands, under deeds or contracts with the states. These claims amount to 3,886 acres. They also reported another class of claims made by persons occupying lands on the townships granted to Plymouth and to General Eaton. These claims were not run out by the commissioners. In number they are seventy-five. Allowing them 160 acres each, 12,000 acres will be required to satisfy them. To this may be added 320 acres claimed by William Black, the petitioner, who appears by the evidence produced before the committee, to have a good foundation for his claim, and who, having made all reasonable exertions to meet the commissioners, has, as the committee think, satisfactorily shown why it was not reported on by the commissioners. The number of acres already taken and further required to be taken to satisfy the provisions of the treaty will be about 90,000. For all this large and valuable tract of land nothing has been in any manner paid or allowed by the government of the United States, who have suffered their treaty obligations in this important matter to be fulfilled by the states, the owners of the lands, or to remain unfulfilled, to the damage and wrong of the claimants who are citizens of this state and subjects of Great Britain. This land lying upon the borders of the rivers is the most valuable land in that region. It would be cheap at \$2 per acre. At that price, adding interest ten years since it was taken, the claim amounts to \$288,000, which is an object of consequence in a pecuniary point of view to the state; and it is the opinion of

the committee, that the claim of the state for compensation should be presented by our delegation in congress and urged to a final settlement without delay.

It is also in proof before the committee, that there are very many claimants for lands under the treaty, whose claims have not been examined, or in any manner finally acted upon. They are of opinion, that it is the duty of the state to give its aid to these claimants, in establishing and enforcing their claims, and for that purpose they recommend that commissioners be appointed to examine all claims to land under the treaty, whose claims have not been finally acted upon and disposed of under the former joint commissions, and to run out or otherwise establish the metes and bounds of each claim which shall be proved before them, whether the same be on lands of the state or on lands the title of which shall be in grantees of the state or states, and that the commissioners make report of their doings as soon as may be to the governor and council, showing in each case what is the nature of the claim, whether by grant or purchase or by possession and improvement, also the date of the commencement of the claim; and for the purpose of carrying out the views indicated in this report, the committee present the accompanying resolves, and recommend that they be adopted.

All which is respectfully submitted,

J. B. HILL, *Chairman.*

March 8, 1854.

STATE OF MAINE.

RESOLVE in relation to the claims of the State upon the United States for lands taken and required to be taken to satisfy claimants under the Treaty of Washington.

Resolved, That our senators and representatives in
2 congress be requested to take such measures as to
3 them shall seem best to bring before the president
4 and congress the subject of the claims of the State of
5 Maine, to indemnity for land taken and required to
6 be taken, to satisfy and fulfill the stipulations on the
7 part of the United States of the treaty of Washing-
8 ton, and to have the same put into a train for a
9 speedy settlement.

STATE OF MAINE.

RESOLVE authorizing the appointment of commissioners to locate grants and determine the extent of possessory claims under the late treaty with Great Britain.

Resolved, That the governor, by and with advice of
2 council, be and he hereby is authorized to appoint
3 one or more commissioners, whose duty it shall be to
4 examine all claims under the treaty of Washington to
5 lands lying in this state, which were not finally exam-
6 ined and adjudicated upon by the commissioners
7 appointed under resolves of Maine approved February
8 21, 1843, and of Massachusetts approved March 24,
9 1843, and

10 *First,* To set off by metes and bounds all grants,
11 under said treaty, not heretofore located by said
12 former commissioners.

13 *Second,* To set off to each settler upon lands of
14 this state, entitled to land under the treaty, by reason

15 of possession and improvement, so much land as he
16 shall be entitled to, not exceeding two hundred acres,
17 unless his actual improvements are such that it is
18 necessary to set off a larger quantity in order to
19 include them.

20 *Third,* To examine and report upon all claims
21 of persons under said treaty to lands which prior to
22 the treaty they had purchased or contracted for,
23 with either of the states of Maine or Massachusetts,
24 and to set forth what said claimants if any have
25 already received compensation for their claims of the
26 states.

27 *Fourth,* To examine and report upon all claims of
28 parties who claim to be equitably entitled to land
29 under said treaty by reason of possession and im-
30 provement, but whose possession had not been com-
31 menced six years before the treaty.

32 *Fifth,* To examine all claims under the treaty by
33 reason of possession and improvement of lands lying
34 within the township granted to the town of Plymouth
35 and the tract granted to General Eaton, and to report
36 the names of parties holding such possessions at the
37 time of the treaty, and of the present claimant if any
38 change has been made, and the number of acres

39 claimed by each ; what would be a fair price for the
40 land in each claim if in a state of nature, and what
41 the present value of each improvement above the
42 price of the land, and on what terms the title to such
43 lands can be procured from the present owners of the
44 fee.

45 The said commissioners shall make report of all
46 their doings to the governor and council, who are
47 authorized to audit their accounts, and allow them
48 such compensation for their services as to them shall
49 seem reasonable and proper, not exceeding dol-
50 lars per day. And the land agent is hereby author-
51 ized to pay said commissioners the sum so allowed.
52 And said commissioners shall return to the land office
53 full field notes and correct plans of all the surveys
54 made by them or under their direction. The name
55 of the occupant of each lot claimed by possession
56 shall be given in the field notes of the survey of the
57 lot, and if the occupant be not the owner, the evi-
58 dence by which the commissioners determine the
59 ownership shall be entered with the field notes, and
60 the name of each owner shall be legibly written on
61 the plan of the lot set off to him.

Resolved, That when such report shall be made, the

2 governor be requested to communicate a copy there-
3 of to the President of the United States, and to inform
4 him that the state is ready to direct deeds to be made
5 to convey the title to the claimants so far as the title
6 is in the state, and is also ready to procure a title to
7 be made to the claimants whose claims are reported
8 by the commissioners to be located on lands the title
9 to which is in grantees holding under the States of
10 Maine or Massachusetts, if the same can be pro-
11 cured on reasonable terms; and if not, to give to
12 such claimants an equivalent in the title to other lands
13 in exchange for these claims; whenever congress
14 shall be ready to make to the state a suitable indem-
15 nity and recompense for the land so required to be
16 taken and for that already taken to satisfy the require-
17 ments of the treaty.

STATE OF MAINE.

HOUSE OF REPRESENTATIVES, }
March 8, 1854. }

ORDERED, That 500 copies of this report and accompanying
resolves be printed for the use of the Legislature.

JOHN J. PERRY, *Clerk.*