

MAINE STATE LEGISLATURE

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DOCUMENTS

PRINTED BY ORDER OF

THE LEGISLATURE

OF THE

STATE OF MAINE,

DURING ITS SESSION

A. D. 1857.

PART SECOND.

AUGUSTA:
STEVENS & BLAINE, PRINTERS TO THE STATE.
1857.

THIRTY-SIXTH LEGISLATURE.

HOUSE.]

[No. 8.

STATE OF MAINE.

PAPERS RELATING TO THE COMMISSIONER AT WASHINGTON ON CLAIMS OF MAINE.

To the House of Representatives :

In pursuance of the order of the House of the 27th ult., I herewith transmit copies of all papers on file in the State Department, relating to the Commissioner on Claims at Washington, under Resolve of March 12, 1855.

It may be proper to add that the claim of the State upon the General Government for lands taken under the treaty of Washington, to quiet settlers on the same, has once received a favorable report from the Committee on the Judiciary of the Senate, and is now pending before the Committee on Claims of that body. Why a report has not been made is not within my knowledge.

During the last session of Congress the claim of Hon. Josiah S. Little, for lands taken under the treaty of Washington, was allowed and has been paid. It is also understood that other claims of a

similar character have been favorably reported on during the present session of Congress. The settlement of these claims, it would seem, must clearly establish the claim presented by the State. The amount due to the State is important, and such measures as shall press it upon the attention of Congress will commend themselves to your attention and approval.

H. HAMLIN.

COUNCIL CHAMBER, {
Feb. 3, 1857. }

CLAIMS OF MAINE AND MASSACHUSETTS

FOR

LANDS SET OFF UNDER THE TREATY OF WASHINGTON.

By the treaty of Washington, of August 9, 1852, it was provided in the fourth Article as follows:

“ALL grants of land 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.”

The “*contracting parties*” being the United States and Great Britain; the obligation assumed by the United States was to quiet a certain class of grantees and settlers within the limits of Maine;

by giving them titles to their lands. The obligation rests, not upon Maine, but upon the United States, and was assumed at the instance of Great Britain, and also because it was required as one of the conditions of the assent of Maine to the treaty.

The title of the lands in question being not in the United States, but in Maine and Massachusetts, those States proceeded to execute this part of the treaty by the appointment of commissioners, in 1843, to determine the limits of grants and possessory rights, and by the execution of the necessary deeds of conveyance. The Government of the United States was notified of the appointment of this commission, and assisted it by furnishing information, thus encouraging and ratifying its appointment.

In 1844 the account of the expenses of this commission, amounting to \$5,902.36, was presented to the Treasury Department of the United States, and was, after full discussion, allowed and paid. At the same time, the Treasury Department was notified that a claim would be presented for the "*value of the territory which may be ceded to quiet settlers, in pursuance of the treaty stipulations.*"

The course of Maine and Massachusetts in thus going forward to execute the fourth article of the Treaty of Washington, was thus fully recognized by the United States. They could execute it holding the title to the lands, while the United States, upon whom the obligation rested, could not execute it except through their aid.

On the 12th of April, 1854, the Legislature of Maine directed the appointment of a new commission, to make a further report upon cases of settlers to be quieted under the Treaty of Washington, and directed deeds to be made to such settlers, "*WHENEVER Congress shall be ready to make to the State a suitable indemnity and recompense for the land so required to be taken, and for that already taken to satisfy the requirements of the treaty.*"

These last described settlers have not yet received the "*release*" which it is the duty of the United States to obtain for them.

Maine and Massachusetts received certain sums of money from the United States in connection with the Treaty of Washington, but these sums were paid for the assent to the new line of boundary, and to the consequent loss of territory north of the river St. John. These payments were proposed by Mr. Webster, as the consideration of their assent to the treaty, when it did not contain the provision now contained in the fourth article.

In a letter to the commissioners of those States, of July 15, 1842, Mr. Webster says: "Under the influence of these considerations, I am authorized to say, that if the commissioners of the two States *assent to the line as described in the accompanying paper*, the United States will undertake to pay to these States the sum of \$250,000, to be divided between them in equal moieties; and, also, to undertake for the settlement and payment of the expenses incurred by these States for the maintenance of the civil posse, and also for a survey which it was found necessary to make. The *line* suggested with the *compensations* and *equivalents*, which have been stated, is now submitted for your consideration."

The pecuniary equivalents proposed were for the assent of Maine and Massachusetts to a new line of boundary. The "*accompanying paper*" referred to by Mr. Webster did not contain the provision set out in the fourth article. That was added as one of the conditions of the assent of Maine, who now asks the performance of the obligations thereby assumed by the United States. Neither Maine nor Massachusetts has agreed to quiet the settlers upon the territory in dispute, or has received any consideration for so doing. On the contrary, they insisted that the United States should assume that obligation.

Gov. Kent, of Maine, the late Abbott Lawrence, and all the other persons concerned with the preparation of the Treaty of Washington, who have given their recollections on the subject, concur in stating, what the correspondence so unmistakably indicates, that the pecuniary equivalents received by Maine and Massachusetts were for their assent to the line of boundary, and for nothing

else. The fourth Article in the Treaty of Washington may seem, in its words, to contain provisions which are reciprocal, and the equivalents of each other; but, in truth, Maine had made no grants which fall within the provisions of the Article, beyond her boundaries in 1842, and her citizens had not made settlements beyond those boundaries. No road led from the occupied portions of Maine into the Valley of the Upper St. Johns, which was accessible only by water and from the British Provinces. No instance is known to the authorities of Maine, in which lands have been conveyed in New Brunswick, under this 4th Article, to citizens of Maine or to citizens of the United States, unless the Madawaska French, north of the St. Johns, who were never under our jurisdiction, can be considered as such. On the other hand, of the lands conveyed by Maine and Massachusetts, nearly all were conveyed to persons of alien birth. The provisions of the fourth Article were reciprocal only in form, but not in reality.

The claim of Maine for the value of lands conveyed to settlers, under the Treaty of Washington, having been presented here, was, on the 27th of June, 1848, by Mr. Buchanan, Secretary of State, communicated to the House Committee of Ways and Means, it was finally referred to the Committee on the Judiciary. An able and conclusive report in favor of the claim, prepared by the Chairman of the Committee, Hon. Joseph R. Ingersoll, was not acted upon in consequence of the session of Congress being near its close.

In the Senate, the subject was referred, at the first session of the Thirty-Second Congress, to the Committee on the Judiciary. A report was made by that Committee, in favor of the claim, on the 29th of December, 1852, accompanied by a bill to indemnify Maine and Massachusetts, at the rate of one dollar and fifty cents per acre, for lands conveyed to settlers. (Reports Cong. No. 361; Senate, 32d Cong., 2d Session.) This bill was never finally acted upon.

Admonished by these delays, Maine has felt it to be most prudent to defer executing releases to settlers, whose rights have

been ascertained by the commission appointed in 1854, until the pleasure of Congress can be known. It is the clear duty of the United States, and the performance of which ought not longer to be delayed, to quiet the settlers intended to be provided for in the 4th Article of the Treaty of Washington. The United States may discharge this duty, either by instituting a commission of their own, or by adopting the result of the commission of Maine and Massachusetts; for in either case the right of property must be purchased of those to whom it belongs.

So far as Maine is concerned, she is prepared to execute releases for a rate of indemnity which, so far from being fixed in a spirit of exaction, was largely influenced by feelings of comity towards her sister States.

The whole quantity of lands found to be in the possession of settlers entitled to the benefit of the 4th Article of the Treaty of Washington, by the commissioners of 1843 and 1854, with the addition of a lot of 120 acres conveyed under a resolve of Maine, passed August 9th, 1849, amounts to one hundred and seventeen thousand five hundred and thirteen (117,513) acres, of which 26,150 acres was the property of Massachusetts, the balance belonging to Maine. This is exclusive of grants on the Eaton grant and Plymouth township, the property of private individuals.

These lands, as a body, are the finest in Maine, being the selections of settlers, and comprising the rich bottom lands of the St. Johns, of the Aroostook, and of the other tributaries of the St. Johns. That portion of Maine which lies in the Valley of the St. Johns is the best agricultural region in New England. Maine is willing to release her interest in these lands, for the consideration of two dollars per acre.

GEORGE A. FAIRFIELD,
Commissioner of Maine.

WASHINGTON CITY, December, 1856.

WASHINGTON, 24 Dec., '56.

HON. SAM'L WELLS,

Governor of Maine.

DEAR SIR:—I do not think that we can get our war claims allowed at this session of Congress, and perhaps never, for the thing itself is in bad odor, and so also is Me. and Mass. The democrats in the Senate will kill it, but our land claim looks more favorable. I could get a report from the Committees if I had time, and I hope and expect to as it is. I shall have some assistance which I did not have last winter. If I do not succeed it shall be for no want of effort on my part.

Respectfully yours,

GEO. A. FAIRFIELD.

STATE OF MAINE.

SECRETARY'S OFFICE, }
AUGUSTA, Feb. 3, 1857. }

A true copy—Attest:

A. JACKSON,

Secretary of State.

WASHINGTON, 1st Jan., 1857.

HON. SAM'L WELLS,

*Governor of Maine,**Augusta.*

DEAR SIR:—In reply to yours of Dec. 26th, upon the subject of our war claim, I have to say that the doubt which I expressed in my note of the 24th, was well founded. I understand Messrs. Hamlin, Washburn, Banks, Weston, *et als.*, to entertain the same opinion, yet I shall do all I can to secure its ultimate allowance. The act of '36 merely authorized the Department to audit the account upon the proofs then presented, and which proofs were not in conformity with the requirements and rules of the War Department. The claim was soon after the passage of the act, audited and presented to Congress, for allowance and appropriation; but Congress refused to entertain it, nearly all of the democratic Senators voting against it. I believe that it was never offered in the House. If you desire, I will procure and send you a copy of said action in the matter of our land claim. I am now preparing a brief statement which I shall have printed this week, a copy of which I will send you. I have separated from it the cost of the commission which I expect to be able next week to get into the Treasury Estimates; also the claim for Mexican War, I feel confident of getting into the War Estimates. If so, it will yield about \$15,000. I may not succeed. If I do not it shall not be for lack of effort.

I am, most respectfully,

Your ob't serv't,

GEO. A. FAIRFIELD.

STATE OF MAINE.SECRETARY'S OFFICE, {
AUGUSTA, Feb. 2, 1857. }

A true copy—Attest:

A. JACKSON,

Secretary of State.

STATE OF MAINE.

OFFICE OF SECRETARY OF STATE, }
AUGUSTA, January 30, 1857. }

To the Speaker of the

House of Representatives:

In compliance with an Order of the House of Representatives of the 27th inst. I herewith transmit an abstract of the several sums paid the commissioners and other persons, during the last two years, for services in prosecuting the claims of this State upon the government of the United States, as appears by the records in this Department.

Also copies of the respective accounts together with Reports of Council thereon.

I have the honor to be,

Very respectfully,

Your ob't serv't,

A. JACKSON,

Secretary of State.

STATE OF MAINE.

SECRETARY'S OFFICE, }
AUGUSTA, January 30, 1857. }

Abstract of sums paid for prosecuting Claims of the State of Maine upon the Government of the United States from January 1855, to January 1857.

1855.

Nov. 14. George M. Weston, advance for services paid from appropriation of Feb. 10, 1855, for contingent fund of Governor and Council, \$500 00

1856.

June 17. George A. Fairfield, advance in part for services, paid from appropriation hereafter to be made, 1100 00

Nov. 29. George A. Fairfield, for balance of account to date, paid from appropriation hereafter to be made, 960 74

“ “ George M. Weston, for balance of account from Dec. 3, 1855, to Feb. 7, 1856, paid from appropriation hereafter to be made, 632 00

Dec. 2. A. Grover, for services at Washington, paid from appropriation of March 13, 1856, for contingent fund of Governor and Council, 573 00

“ 31. Samuel L. Harris, for services as per account, paid from appropriation of March 13, 1856, for contingent fund of the Governor and Council, 300 00

\$4065 74

A. JACKSON,
Secretary of State.

STATE OF MAINE TO GEO. M. WESTON,	Dr.
To attendance one week at Augusta in November, 1855,	
upon the business of my appointment as commissioner	
under resolve of March 17, 1855,	\$25 00
To attendance at Washington upon same business, from	
December 2, 1855, to February 7, 1856, at eight	
dollars per diem,	\$544 00
To travel from Bangor to Washington, 735 miles, at the	
rate allowed to members of Congress,	\$588 00
	<hr/>
	\$1,157 00
By cash advanced in November, 1855,	\$500 00

STATE OF MAINE.

SECRETARY'S OFFICE, }
 Augusta, Jan. 30, 1857. }

A true copy—

ATTEST :

A. JACKSON,
Secretary of State.

THE STATE OF MAINE TO SAMUEL L. HARRIS, Dr.

For services rendered Geo. A. Fairfield, Esq., commissioner of Maine, in preparing a statement of the claims of said State against the United States, as requested in his letters of 20th February and 3d March, 1856, copies of which are hereunto annexed, (time actually employed at different periods, about 40 days,)	\$200 00
Cash paid J. G. Sawyer in transcribing statement above referred to: as per voucher annexed,	\$15 00
Cash paid J. G. Sawyer for services rendered at different periods during the years 1854, '55 and '56, as per voucher,	\$270 00
3 1-2 months rent of office for commissioner Fairfield, per agreement with him at \$20 per month,	\$70 00
Stationery, &c., about	\$15 00
	<hr/>
	\$570 00

December 26, 1856.

STATE OF MAINE.

SECRETARY'S OFFICE, }
 Augusta, Jan. 30, 1857. }

A true copy—

ATTEST:

A. JACKSON,
Secretary of State.

STATE OF MAINE IN ACCOUNT WITH GEORGE A. FAIR-
FIELD, AS COMMISSIONER AT WASHINGTON, Dr.

1856. To travel to and from Bangor to Washington, 735	
miles,	\$588 00
" time actually in service, 163 days,	1,304 00
" Map of State, of Geo. W. Atwood,	3 00
" postage and express bill,	3 25
" blank book,	1 00
" stationery for copies at Washington,	4 25
" office rent,	67 62
" fuel and lights for office,	9 12
" paid for making copies,	76 75
" " S. Jewett for assisting in examining doc- uments,	2 25
" tin case for plans,	1 50
	<hr/>
	\$2,060 74
	<hr/>
	<i>Contra Cr.</i>
By Treasury Warrant, June 17,	\$1,100 00
	<hr/>
	\$960 74

STATE OF MAINE.

SECRETARY'S OFFICE, {
Augusta, January 30, 1857. }

A true Copy—

ATTEST:

A. JACKSON,

Secretary of State.

STATE OF MAINE TO A. GROVER,

Dr.

July, 1856. To expenses incurred in travel and attendance at Washington, to the adjustment of our Claims with the General Government,

\$328 00

To 49 days service, at \$5,

245 00

 \$573 00

Received pay.

 IN COUNCIL, {
 June 24, 1856. }

Referred to the Committee on Warrants.

ATTEST:

C. R. AYER,

Secretary of State.

 STATE OF MAINE.

 SECRETARY'S OFFICE, /
 Augusta, January 30, 1857. }

A true copy—

ATTEST:

A. JACKSON,

Secretary of State.

STATE OF MAINE.

IN COUNCIL, }
Nov. 14, 1855. }

The Standing Committee on Warrants, to which was referred the communication of Geo. M. Weston,

REPORT:

That the Governor be advised to draw his warrant on the Treasurer of State in favor of Geo. M. Weston, for five hundred dollars, in advance on account of services and expenses as commissioner, appointed under a Resolve of the Legislature, approved March 17, 1855, to prosecute and settle the claims of the State upon the Government of the United States, for lands set off to settlers under the fourth article of the treaty of Washington. To be paid from, and charged to, the appropriation for Contingent Fund of Governor and Council, under the act approved February 10, 1855.

Which is respectfully submitted,

NOAH SMITH, JR.,
Chairman.

IN COUNCIL, }
Nov. 14, 1855. }

Read and accepted by the Council, and by the Governor approved.

ATTEST:

A. JACKSON,
Secretary of State.

SECRETARY'S OFFICE, }
Augusta, January 30, 1857. }

A true copy—ATTEST:

A. JACKSON,
Secretary of State.

STATE OF MAINE.

IN COUNCIL, }
June 17, 1856. }

The Standing Committee on Warrants,

REPORT:

That the Governor be advised to draw his warrant on the Treasury of the State, for the sum of eleven hundred dollars, in favor of George A. Fairfield, in part in advance, for his services as Commissioner at Washington, to be paid from, and charged to, an appropriation hereafter to be made.

A. GROVER, Per Order.

IN COUNCIL, }
June 17, 1856. }

Read and accepted by the Council, and by the Governor approved.

ATTEST :

C. R. AYER,
Secretary of State.

SECRETARY'S OFFICE, }
Augusta, Jan. 30, 1857. }

A true copy—

ATTEST :

A. JACKSON,
Secretary of State.

STATE OF MAINE.

IN COUNCIL, }
Nov. 28, 1856. }

The Standing Committee on warrants, to which was referred the accounts of George A. Fairfield and George M. Weston, Commissioners at Washington, had the same under consideration, and

REPORT:

That no fixed sum appears to have been observed heretofore as a compensation for our agents at Washington.

From 1838 to 1842, our agents were paid from ten to twelve dollars per day, without regard to travel.

From 1842 to 1855, during which time we received from the General Government nearly a million of dollars, a per centage was paid amounting to a much larger per diem compensation than had to that time been observed.

In 1855 the Legislature created the office of Commissioner and omitted to fix upon the compensation for service, but it appears to have been the general understanding by the parties interested at that time, that the compensation for service should be the same as the pay of members of Congress at the time the office was created. We therefore advise and recommend that the Governor draw his warrant on the Treasurer of the State in favor of George A. Fairfield, for the sum of nine hundred sixty dollars and seventy-four cents, being the balance of his account for services to the present time.

Also in favor of George M. Weston for the sum of six hundred

thirty-two dollars, being the balance of his account for services from December 3, 1855, to February 7, 1856, after rejecting the item for travel to Augusta, in November, as a claim not sufficiently explained in the account.

To be paid from and charged to an appropriation hereafter to be made.

Which is respectfully submitted,

(Signed,) A. GROVER, *per order*.

IN COUNCIL, }
November 29, 1856. }

Read and accepted by the Council, and by the Governor approved.

ATTEST:

(Signed,) C. R. AYER,
Secretary of State.

SECRETARY'S OFFICE, }
Augusta, January 30, 1857. }

A true copy—

ATTEST:

A. JACKSON,
Secretary of State.

STATE OF MAINE.

IN COUNCIL, }
Dec. 2d, 1856. }

The Standing Committee on Warrants, to which was referred the account of A. Grover, for services at Washington, have had the same under consideration, and

REPORT:

That the same appears just and proper. They, therefore, advise that the Governor draw his warrant on the Treasurer of the State in favor of A. Grover, for five hundred and seventy-three dollars, to be paid from and charged to the contingent fund of Governor and Council, under act of March 13, 1856.

Which is respectfully submitted,

H. STRICKLAND, *per order.*

SECRETARY'S OFFICE, }
Augusta, January 30, 1857. }

A true copy—

ATTEST:

A. JACKSON,
Secretary of State.

IN COUNCIL, }
Dec. 2d, 1856. }

Read and accepted by the Council, and by the Governor approved.

ATTEST:

C. R. AYER,
Secretary of State.

STATE OF MAINE.

IN COUNCIL, }
December 31, 1856. }

The Standing Committee on Warrants, to which was referred the communication and accounts in part of Samuel L. Harris, for services rendered the State in prosecuting the claims of the State against the General Government under the treaty of Washington.

R E P O R T :

That the Governor be advised to draw his warrant on the Treasurer of the State, in favor of Samuel L. Harris, for the sum of three hundred dollars in advance of the settlement of his account; to be paid from and charged to the appropriation for the contingent fund of the Governor and Council, under act of March 13, 1856.

Which is respectfully submitted.

(Signed)

A. GROVER, *Per order.*

IN COUNCIL, }
December 31, 1856. }

Read and accepted by the Council, and by the Governor approved.

ATTEST :

C. R. AYER,
Secretary of State.

SECRETARY'S OFFICE, }
AUGUSTA, January 30, 1857. }

A true copy—Attest :

A. JACKSON,
Secretary of State.



STATE OF MAINE.

4

HOUSE OF REPRESENTATIVES, }
February 3, 1857. }

ORDERED, That 350 copies of the Governor's Message, this day sent to the House, and accompanying papers together with the communication from the Secretary of State, transmitting information in relation to sums paid the Commissioner on Claims at Washington, be printed for the use of the Legislature.

GEO. W. WILCOX, *Clerk.*