

# MAINE STATE LEGISLATURE

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DOCUMENTS

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THE LEGISLATURE

OF THE

STATE OF MAINE,

A. D. 1858.



AUGUSTA:

STEVENS & SAYWARD, PRINTERS TO THE STATE.

1858.

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# THIRTY-SEVENTH LEGISLATURE.

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SENATE.]

[No. 19.]

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## STATE OF MAINE.

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IN SENATE, Feb. 19, 1858.

The Joint Standing Committee on State Lands and State Roads, to which was referred the report of the Land Agent, ask leave to submit the following

### REPORT:

The Committee have deemed it to be within the scope of their duty to examine the books and accounts of the Land Agent, and particularly the accounts of James Walker, late Land Agent, which pursuant to an order of the Legislature, were taken from the files in the Secretary of State's Office, and deposited in the Land Office.

It appears from an inspection of the books and accounts in the Land Office, that there was paid into the Land Office, by James Walker, late Land Agent, on the 30th day of December last, the sum of \$8,014.35, as will more fully appear from the sheet annexed, marked A. A considerable portion of this sum appears to have been paid to Mr. Walker after the settlement of his account with the Governor and Council, December 31, 1856, and before the election of his successor. This does not appear to be a new transaction in the Land Office, several former Land Agents, in retiring from office, having retained in their hands, funds belonging to the State, and settling for the same afterwards, and in one instance, the account is not yet adjusted.

The Committee are of opinion, that when the Land Agent retires from office, he has no legal right to retain in his hands any property

belonging to the State; but should deliver up the same to his successor, and if any doubt exists upon this subject, some provision should be made, either by inserting an additional clause in the Land Agent's bond, or by the passage of an additional law, to remedy the defect.

The State is entitled to interest on these funds, during the time of their abstraction from the Land Office, and if not paid, the collection should be enforced by law.

In 1849, the custody of the lands reserved for public uses, was taken from the County Commissioners, and placed in the hands of the Land Agent. The accounts of the sales of these lands do not appear to have been properly entered upon the books in the Land Office. They have been kept separate from the ordinary transactions in the office, and the amounts received and paid, at no time appear upon the quarterly trial balances. The improper manner in which these accounts have been kept, has undoubtedly given rise to this mismanagement of the property.

The private account of Mr. Walker, according to the sheet annexed, marked B, appears to have been settled in the usual manner by the Governor and Council, as more fully appears from the certificate of Hastings Strickland, a copy of which accompanies the account.

The compensation provided by law for the Land Agent, at the time of Mr. Walker's services, was as follows :

"The Land Agent shall receive an annual salary of one thousand dollars from the State, *in full compensation for all his services.*"

Notwithstanding this provision, Mr. Walker presents a claim of one hundred and seventy days extra services, at \$5 per day, amounting in all, to \$850, which was allowed and paid.

Under his salary, the State had a right to all the time of the Land Agent, and if he had a claim to any extra compensation, the Legislature and not the Governor and Council was the proper tribunal, to make the allowance.

Mr. McIntyre, the Land Agent during the Aroostock war, presented no claim for extra compensation before the Governor and Council; but he did before the Legislature, where his account was finally settled.

Your Committee are of opinion that this payment was in violation

of law, and against all precedent, except in one or two instances, where the Land Agent had performed certain services in obedience to some special resolve of the Legislature, and had charged a small compensation.

Mr. Walker presents another charge for exchange of  $2\frac{1}{2}$  per cent. on \$35,195.27, collected on account of stumpage at St. John, N. B., amounting to \$879.83, which was allowed and paid.

It was the duty of the Land Agent to have received current funds in payment for demands due the State, and if exchange were allowed, it should have been one per cent. only, as that was the usual rate of exchange between St. John and Maine and Massachusetts, during the year 1856. But there was no exchange paid, as the money paid at St. John, was paid either in drafts on Boston, or by cash deposited in the Boston banks, and nothing to any amount, was paid in New Brunswick currency. It is a little remarkable that a large amount of the stumpage collected at St. John in the summer and fall of 1856, does not appear to have been credited to the State until December 31, 1856.

Your Committee are of opinion that this charge for exchange is wholly fictitious, and had no foundation in fact, and ought never to have been allowed.

Mr. Walker presents another charge of \$430.59, as five per cent. commissions on certain moneys disbursed by him, which was allowed and paid. It was one of his duties as Land Agent, to perform these services, and there is no law to sustain the charge. Since about the time of Mr. Bradley's administration, it has been customary to charge commissions as above, and they have been allowed and paid. But this charge, if proper to be allowed, should be regulated by law, and not left to the tender mercies of the Governor and Council.

Mr. Walker presents an account of his personal expenses amounting to more than \$1,000, which was allowed and paid. It has been usual for the Land Agent to charge his personal expenses, when visiting the public lands, or performing some service under a special resolve, and a reasonable sum has been allowed to former Agents on this account. But Mr. Walker's account is unreasonably large, is unaccompanied by vouchers of any kind, with the exception of Mr. Woodward's bill, appears to be mixed up with his own private charges, and could never have been properly examined and audited.

There is a book known as the "bill-book," in the Land Office, upon which it has been usual to enter, at length, the bills paid from the office. Daniel Sanborn, Esq., was the Assistant Land Agent, under Mr. Walker, and it was his duty to have made the proper entries upon the bill-book. Nothing appears to have been entered upon this book during Mr. Walker's administration. The book remains a blank. Perhaps it was thought that the fewer tracks left in this direction, the less there would be to reward any future exploration.

In 1841, as will appear from the legislative documents of that year, the account of Rufus McIntyre, as Land Agent for the two previous years, after having been settled by the Governor and Council, was re-examined, and upwards of one hundred errors discovered in his account, and a balance of about \$1500 against him, and in favor of the State.

It appears very evident, therefore, that gross negligence and carelessness has heretofore existed in the settlement of the Land Agent's accounts with the Governor and Council.

The Committee do not refer to these matters so much with the idea of seeking a remedy for the past, as to call the attention of the Legislature to the necessity of providing more efficient safeguards for the future.

If it be necessary to pay the Land Agent a yearly salary of some \$4,000 or \$5,000, suitable provision should be made, by law, to this effect, and if not necessary, then provision should be made to bring his compensation within the requirements of existing laws.

Another account of Mr. Walker appears in the Land Agent's account of the past year, amounting to \$430 <sup>24</sup>/<sub>100</sub>, according to the annexed sheet marked (C.) This account was audited by the late Governor and Council, as appears from the accompanying report, and a large part of the same disallowed.

Had Mr. Walker's account the former year been submitted to the same searching examination, a large portion of the same would undoubtedly have been disallowed. The present system of auditing and settling accounts against the State is very objectionable, and subject to much abuse.

Certain accounts are presented to the Legislature, and the same are referred to and audited by the proper Committees. Certain

accounts are also audited by the Governor and Council, and it has often happened that the same accounts have been allowed twice, and paid. And again, the large amount of accounts to be audited and allowed by the Governor and Council, at or near the close of their official duties, does not give them time to attend to the business in a proper manner; hence the accounts are hurried over, the footings taken to be correct, and no real examination made. The Committee are therefore of the opinion that the time has arrived, when, taking into consideration the increased expenditure of the State, the multiplication of disbursing agents, that some more effective mode than the present should be adopted, for the auditing and settlement of accounts in which the State is a party.

From what attention the Committee have been able to give to this subject, they are satisfied, that the best interests of the State would be promoted from the establishment of a State Auditor of Accounts. Such an office was established in Massachusetts in 1849, and has been found to be highly useful, and indeed, at the present time, to be almost indispensable. Such an office has been established in most of the States, and it is believed to have been in every case satisfactory to the people.

They would therefore recommend the passage of a bill to establish the office of Auditor of Accounts, which is herewith submitted.

E. L. HAMLIN, *Chairman.*

# STATE OF MAINE.

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IN COUNCIL, January 5, 1858.

The Committee of the whole Council, to which was referred the annual account of Noah Barker, Land Agent,

## REPORT:

That these accounts embrace the one month service of James Walker, late Land Agent, and eleven months of Noah Barker, present Land Agent. That part of the accounts made under said Barker are well vouched and correctly cast, and meet our approbation, (except one charge paid Spencer Arnold, of fifty dollars, was duplicated, of course erroneous, and should be deducted,) and said Barker has credited to the State said error. That part of the accounts made under said Walker, we have allowed the larger part of them, thinking them correct or nearly so, but there are certain other charges, some of which are entirely objectionable, others not sufficiently explicit to warrant their acceptance, viz :

		Am't allowed.	Disallowed.
A. Woodward's bill for	10 50	2 50	8 00
James Walker's "	29 25	-	29 25
Daniel Sanborn's "	10 00	5 00	5 00
Edward Rowse's "	48 00	-	48 00
Daniel Sanborn's "	32 25	-	32 25
Jas. P. Walker's "	300 94	154 69	146 25
	\$430 94	\$162 19	\$268 75

Perhaps a portion of said accounts might be found acceptable, on getting the facts connected with them.

Mr. Walker should have presented his accounts to the Governor and Council, on leaving the office, for their approval, instead of charging them on the books and taking the pay, and never present-



ing them to be audited; not having done that, he should not be debarred from the privilege of coming before the Council with such facts as he may present, that they may be properly understood.

The first of said charges, we allow for horse to Oldtown only; the second, we allowed none; the first part, going to Bangor twice in the short space of one month, was only going home to his family; the last part may be right, but so indefinite we could not allow it. The third charge we allowed five dollars, the amount usually paid for said service. The fourth charge is probably correct, but we consider it clerk hire, and should come out of his \$1,000.00 allowed him for that purpose. The fifth charge we consider too indefinite and too doubtful to allow any part of it. The sixth and last charge we allow part and reject part. James P. Walker is son of the Land Agent Walker, and was then about 16 or 17 years old, (a good boy,) but could not be so valuable as a man for wood's work, or even any other work. We allow him one dollar per day and incidental expenses, which sum would have hired a full grown man, even. The \$30.75 we consider clerk hire, and should have been done by the clerk, and come out of the \$1,000.00 allowed Land Agent for that purpose.

Which is respectfully submitted.

A. COBURN, *Chairman.*

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IN COUNCIL, Jan. 5, 1858.

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

ATTEST:

A. JACKSON, *Secretary of State.*

## A.

*Lands sold in 1856, by JAMES WALKER, Land Agent.*

Reserved lot in 14, E. D., Washington co.,	\$155 00	
Public lots sold, 1856, . . . . .	583 00	
		\$738 00
On account of public lots sold prior to Jan. 21, 1857,		5,380 90
Cash received on Permanent School Fund, up to and including Jan. 26, 1857, . . . . .		1,895 45
		\$8,014 35

The above amount of \$8,014 <sup>35</sup>/<sub>100</sub> was paid over to the Land Office, December 30, 1857.

## STATE LANDS AND STATE ROADS.

9

## B.

STATE OF MAINE, TO JAMES WALKER, *Land Agent*, DR.

1856.			
March	10,	To expenses from Augusta to Bangor, and returning on business, with Wm. Jameson,	\$14 35
"	16,	" paid for stamps,	3 13
"	20,	" expenses to Portland, on business with Winslow & Turner,	16 25
"	26,	" paid telegraph,	1 27
"	27,	" expenses to Bangor, on business,	14 60
April	10,	" paid telegraph,	2 10
"	10,	" paid express,	4 50
"	10,	" paid auditing account of dam commissioners,	15 00
"	26,	" going to boom,	4 00
"	26,	" paid expressman,	3 50
"	28,	" going to boom,	4 00
"	29,	" going to boom,	4 00
"	30,	" expenses going to Hampden, Orrington and Brewer, to take delivery of Dwinal boards,	10 00
May	1,	" going to boom,	4 00
"	5,	" expenses on J. R. Russell's timber,	20 50
"	5,	" paid cleansing windows,	2 50
"	5,	" paid for mending paper,	2 50
"	7,	" paid for stamps,	2 10
"	7,	" going to boom,	4 00
"	9,	" going to Sunkhaze on business,	6 25
"	12,	" going to Argyle on Frank Adams' logs,	6 00
"	15,	" going to Hampden, Orrington and Brewer,	7 50
"	15,	" paid express and telegraph,	6 67
"	20,	" going to boom,	4 10
"	24,	" going to Augusta to see J. R. Russell's logs,	19 25
June	2,	" going to boom,	4 10
"	10,	" expenses going to Franklin and Somerset counties on business,	41 75
"	16,	" going to boom,	4 10
"	20,	" going to Gardiner to see Bradstreet,	19 62
"	28,	" expenses to Woodstock to look after lands and settlers' claims,	84 88
July	8,	" expenses going to Frederickton,	58 00
"	10,	" expenses going to Argyle on business,	8 12
"	12,	" expenses going to Bradley on business,	6 75
"	15,	" expenses going to Boston on Cary matter,	35 00
"	17,	" expenses going to boom,	3 75
"	19,	" expenses on Hayward's logs,	10 10
"	22,	" expenses to Augusta and Gardiner, to settle stumpage,	15 10
"	22,	" paid telegraph and express,	8 43
"	24,	" expenses collecting stumpage on Ansil Smith's logs,	15 76
"	24,	" paid protest on notes,	3 00
"	24,	" paid for Maine Register,	1 00
"	25,	" going to Oldtown and Argyle,	6 12
"	25,	" paid sundry small bills,	14 26
"	28,	" expenses to Oxford, on business,	36 62
"	28,	" expenses on timber of W. T. Pierce,	10 37
Aug.	12,	" expenses to St. John on business,	62 75

## B, (Continued.)

STATE OF MAINE, TO JAMES WALKER, *Land Agent*, DR.

1856.			
Aug. 15,	To expenses to Augusta, on business,		\$12 50
" 15,	" expenses to Lincoln to look after logs,		13 72
" 15,	" cleansing windows in office,		1 00
" 23,	" expenses to Orrington, Hampden and Brewer,		9 25
" 27,	" expenses in settling stumpage on Pierce & Lunt's logs,		14 75
" 30,	" expenses in settling stumpage on A. Smith's logs,		15 57
Sept. 5,	" expenses looking after logs cut in 4, Range 11,		12 75
" 5,	" expenses on Adams' logs, cut winter 1852 and '53,		19 13
" 6,	" going to Milford, Sunkhaze and Argyle,		16 67
" 13,	" going to Brownville to collect timber cut by permit,		14 75
" 15,	" going to boom,		4 17
" 19,	" going to boom,		4 17
" 19,	" expenses to Augusta, by order of Governor and Council,		18 30
Oct. 4,	" going to boom,		4 12
" 4,	" expense in collecting stumpage on Jellem timber,		19 27
" 8,	" going to Boston in relation to notes,		30 00
" 17,	" expense to Aroostook, on business,		77 79
" 18,	" paid telegraph bill,		10 75
" 20,	" expense to Somerset and Oxford on business,		47 56
" 27,	" going to Argyle,		4 12
" 27,	" paid sundry small bills,		10 15
Dec. 20, 30,	" expenses to Augusta twice, by order of Governor and Council,		21 05
" 31,	" commissions for disbursing moneys under resolves making appropriations for roads and bridges, \$8,611 80, at 5 per cent.,		430 59
" 31,	" exchange in moneys collected of stumpage at St. John, N. B., \$35,195 27, at 2½ per cent.,		879 88
" 31,	" time spent out of the office in the collection of demands due the State, and for service in attending to settlers' claims in the county of Aroostook, 170 days, at \$5 per day,		850 00

The following account was brought in and allowed under the head of *charges* :

1856.	JAMES WALKER, TO A. WOODWARD,	DR.	
Apr. 11,	To horse and chaise in town,		1 00
" 26,	" horse and chaise in town,		1 09
" 30,	" horse and chaise in town,		1 00
May 9,	" horse and chaise to Stillwater,		2 00
June 16,	" horse and buggy to Aroostook, 13 days, at \$2 per day,		26 00
May 14,	" horse and chaise to Hampden,		1 50
July 23,	" horse and chaise in town, all day,		1 50
Aug. 11,	" horse and chaise in town, all day,		1 00
Sept. 3,	" horses and carryall to Pushaw Pond,		5 00
" 6,	" horses and carryall,		2 00
			\$3,211 76

C.

STATE OF MAINE.

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IN COUNCIL, January 6th, 1857.

The Committee of the whole Council, to which was referred the account of James Walker, Land Agent, have fully examined the same and

REPORT:

That said account is properly vouched and correctly cast, and the Committee recommend that the same be approved and placed on file. Which is respectfully submitted.

H. STRICKLAND, *Chairman.*

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IN COUNCIL, Jan. 6, 1857.

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

ATTEST:

•  
C. R. AYER, *Secretary of State.*

## D.

JAMES WALKER, To A. WOODWARD, DR.

1856.	.		
Oct. 2,	To horse and carryall in town, . . . .		\$2 00
" 4,	" horse and chaise, in town, . . . .		1 00
" 6,	" horse and chaise in town, . . . .		1 00
" 10,	" horse and chaise to Oldtown, . . . .		2 50
Dec. 4,	" horse and sleigh, in town, . . . .		1 00
" 8,	" 8 seats in coach, . . . .		2 00
" 12,	" horse and chaise in town, . . . .		1 00
1857.	STATE OF MAINE, To JAMES WALKER, DR.		
Jan. 7,	To going to Bangor twice on business for the office, " paid sundry bills, for telegraphing, letter stamps, and fuel for office at Bangor, . . . .	18 50	
		10 75	
1857.	LAND OFFICE, To D. SANBORN, DR.		
Jan. 23,	To taking acknowledgment of deeds, . . . .	10 00	
1857.	STATE OF MAINE, To EDWARD ROUSE, DR.		
Jan. 30,	To 24 days in Land Office—\$30 of this was paid Jan. 26th. (See waste,) . . . .	48 00	
1856.	LAND OFFICE, To D. SANBORN, DR.		
Nov. 23,	To expenses to Boston, on business of office, to wit: Railroad fare up and back . . . .	10 00	
	Four and a half days board at hotel, \$2, . . . .	9 00	
	Expense on the way up and back, . . . .	50	
	Amount paid at sundry times for services making plans and copying field notes for office, . . . .	6 25	
1857.	Expense getting books from Bangor to Augusta, . . . .	4 75	
Jan'y.	To freight on same to depot, Bangor, . . . .	1 00	
	" freight on same from depot to State House, . . . .	75	
	LAND OFFICE, To JAMES P. WALKER, DR.		
	For services in Noah Barker's surveying party 154 days at \$1.75, . . . .	269 50	
	To cash paid out for one file, . . . .	17	
	" cash paid out for fixing wagon, . . . .	10	
	" cash paid out for crossing Aroostook river, . . . .	17	
	" cash paid out for dinner at Piscataquis, . . . .	25	
	" services in Land Office, making plans and copying papers, . . . .	30 75	
			\$430 94

# STATE OF MAINE.

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

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AN ACT to establish the office of Auditor of Accounts.

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

SECTION 1. There shall be elected, by the two  
2 branches of the legislature, by joint ballot, during the  
3 present session, and in the month of February in each  
4 succeeding year, an officer, to be styled auditor of  
5 accounts, who shall continue in office one year, and  
6 until a successor be duly chosen and qualified. He  
7 shall give bond to the treasurer, with sufficient sure-  
8 ties, to be approved by the governor, with the advice  
9 and consent of the council, in the penal sum of —  
10 for the faithful discharge of the duties of his office.  
11 In case of any vacancy in said office, by death, resig-  
12 nation or otherwise, a successor shall be appointed  
13 according to the above provisions; *provided*, that, if

14 such vacancy happen during the recess of the legisla-  
15 ture, such successor may be appointed by the gov-  
16 ernor, with the advice and consent of the council, and  
17 shall hold his office till a successor be chosen by the  
18 legislature, and qualified.

SECT. 2. The auditor shall examine all accounts  
2 and demands against the state, except for such sums  
3 as may be due on account of the principal or interest  
4 of any public debt, or of the pay rolls of the council,  
5 senate or house of representatives, and shall certify  
6 the amount due on any such demand, the head of  
7 expenditure to which the same is to be charged, and  
8 the law authorizing the payment thereof, to the gov-  
9 ernor, who may draw a warrant therefor, as provided  
10 by the constitution, and all such certificates shall be  
11 recorded by the auditor, in a book to be kept for that  
12 purpose. No warrant shall be drawn for the payment  
13 of any account or demand, except the said pay rolls,  
14 which has not been certified as above. And all re-  
15 ceipts given by the treasurer shall be approved and  
16 countersigned by the auditor, and no such receipt  
17 shall be valid until so countersigned. And, as soon  
18 as may be after the drawing of any warrant, the sec-  
19 retary shall transmit to the auditor a written statement  
20 of the amount and purport of the same.



SECT. 3. The auditor shall keep, at all times, a distinct account of all public receipts and expenditures under appropriate heads, and shall charge, against each head, all expenditures properly belonging thereto; and, in case the sum allowed by law shall have been expended or drawn for, shall communicate such fact, in writing to the secretary, who shall lay the same before the governor and council as soon as may be. He shall also keep a like statement of the school fund, and all other public property, and of all debts and obligations due to and from the state; and, for the above purposes, shall have free access to any books or papers in the offices of the secretary, the treasurer, or the land agent.

SECT. 4. The auditor shall annually, in the month of January, carefully examine all the books and accounts of the treasurer, with all the vouchers of such accounts, and shall report thereon to the legislature. He shall on or before the fifteenth day of January annually, exhibit to the legislature a complete statement of the public property of the state, its debts and obligations of every kind, its revenue and expenses during the preceding year, and the balance left in the treasury at the close of such year, explaining whether such balance resulted from an excess over current

12 expenses, or otherwise. He shall likewise submit, at  
13 the same time, an estimate of expenses for the cur-  
14 rent year, distinguishing those which are ordinary and  
15 current from those which are extraordinary, together  
16 with an estimate of the ordinary income of the state,  
17 and of all other means which he may be able to point  
18 out for the defraying of expenditures, and shall annex,  
19 to the said statements or estimates, such representa-  
20 tions or suggestions as he may deem necessary.

SECT. 5. The books and accounts of the auditor  
2 shall be carefully examined, at least once during the  
3 recess of the legislature, by a committee of the council,  
4 or such other person as the governor, by and with the  
5 advice and consent of the council, may appoint; and  
6 shall also be carefully examined by the committee of  
7 accounts in the month of January annually.

SECT. 6. The salary of the auditor shall be ——  
2 dollars per annum, payable quarter-yearly. He shall  
3 keep his office in such place as the governor, with  
4 the advice of the council, may direct; and a further  
5 sum not exceeding —— dollars, is hereby appro-  
6 priated to defray such expenses as may be necessary  
7 for the establishment of the auditor's office, and sup-  
8 port of the same, during the present year.

SECT. 7. The auditor shall, at all times, comply  
2 with any regulations, in relation to the duties of his  
3 office, not repugnant to the provisions of this act,  
4 which may be transmitted to him in writing by the  
5 governor and council.

SECT. 8. So much of any act or resolve, heretofore  
2 passed, as may be inconsistent with the provisions of  
3 this act, is hereby repealed.

SECT. 9. This act shall go into operation from and  
2 after its approval by the governor.



STATE OF MAINE,

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IN SENATE, February 19, 1858.

ORDERED, That 1,000 copies of the foregoing report and bill  
be printed for the use of the Legislature.

ATTEST:

JOSEPH B. HALL, *Secretary.*