

MAINE STATE LEGISLATURE

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Public Documents of Maine:

BEING THE

ANNUAL REPORTS

OF THE VARIOUS

Public Officers and Institutions

FOR THE YEAR

— 1885 —

VOLUME I.

AUGUSTA:
SPRAGUE & SON, PRINTERS TO THE STATE.
1885.

ANNUAL REPORT
OF THE
LAND AGENT

OF THE
STATE OF MAINE

FOR THE
Year Ending November 30, 1884.

AUGUSTA :
SPRAGUE & SON, PRINTERS TO THE STATE.
1885.

REPORT.

LAND OFFICE, DECEMBER 1, 1884.

To the Honorable Governor and Council:

The undersigned, Land Agent, has the honor to make the annual report of the operations of the Land Department for the year ending November 30, 1884.

SALES OF LAND.

Sales of land are now somewhat limited, as but little of our former extensive domain remains in the hands of the State.

Repeated inquiries are made at this office for information in relation to *settling lands*, as many people suppose that large quantities of settling land are still held by the State, open to settlement. It is well known by those informed on that subject, that a large portion of our lands passed by act of Legislature to the E. & N. A. Railway Co. in 1868. By the terms of that conveyance those lands were to be kept open to settlement. In the "Private and Special Laws" of 1864, chap. 401, will be found the act donating these lands to the E. & N. A. Railway Co. In section three is the following proviso: "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 size for the purposes 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."

Schedule A exhibits the conveyances made to actual settlers on the return of the original land certificate by the grantee or his assignee, together with evidence that all the conditions of the "act regulating the sale of lands for settlement" had been complied with.

Schedule B shows the sales of land for cash, by order of the Governor and Council or by resolve of Legislature.

Schedule C exhibits the lots contracted to settlers during the past year upon the terms provided in the "act regulating the sale of lands for settlement."

Schedule D exhibits the sales of islands, by direction of the Governor and Council.

Schedule E contains the names of "Revolutionary soldiers" and "widows of deceased Revolutionary soldiers" who are entitled to deeds of two hundred acres of land under resolve of March 17, A. D. 1835, and subsequent resolves additional thereto.

Certificates were issued under said resolve to four hundred eighty-one applicants out of eight hundred thirty-six that applied for land. The certificates were returned to the Land Office by the original grantees or their heirs or assigns, and deeds were given in all cases except those contained in this schedule.

Schedule F contains the list of lots now under contract to settlers, with the date of certificate and location of lot. Deeds will be given of these lots whenever the conditions of the certificate are complied with.

TREATY LOTS.

There are frequent claims made for land under the "Treaty of 1842," or for money in cases where the title to the lands claimed was not in the State. Commissions were appointed by Maine and Massachusetts in 1844, and by Maine in 1854, and agents have been appointed to investigate these claims,

and have made full and elaborate reports, but those reports are not now in print and cannot be obtained. The reports of the commissioners of 1844 and 1854 were published in the Land Agent's reports of 1882 and 1883, as they contained valuable information relating to those claims. In 1877 the Legislature passed a resolve requesting the Attorney General (Judge L. A. Emery) " to examine the question of the rights of settlers under the Treaty of Washington, and report to the next Legislature whether the State of Maine is legally or morally held for the payment of any sum or sums for the purpose of quieting the claims of said settlers, and if so, to what amount, and to what party or parties." As that is a very able document, showing the conclusions after an exhaustive and thorough research by one of our ablest legislators and jurists, it has been deemed advisable to reprint it in order that all the facts relating to that class of claims may be preserved. The State can not afford to ignore any of those claims which they are *legally or morally* bound to regard.

RESERVED LANDS.

There appears to be a misapprehension of the law relating to "Reserved Lands," or, as they are sometimes termed, "Public Lots," or "School Lots." Judgment has been rendered in favor of the plantation in the case for the recovery of stumpage of timber cut on reserved lots in Cyr Plantation (L. R. 2). Another suit is pending to recover pay for timber and bark cut on reserved lots in Silver Ridge Plantation, which will probably be tried at the April term of court in Bangor. The following is copied from Land Agent's report of 1882 :

The care and custody of the "Reserved Lands," or, as they are sometimes termed, "School Lands," devolves upon the Land Agent. The officers of plantations, in some instances, think and act as though these lands were at their disposal. They have, without authority, sold the timber from these lands and used the proceeds for plantation purposes.

The question naturally arises, by whom were these reser-

vations made and for what purposes? and further, who shall control them, and what shall be done with the avails until the towns are incorporated?

The first act requiring reservations for schools was a resolve of the Commonwealth of Massachusetts, approved July 9, 1784 (the year that the Land Office was first established in Massachusetts, and a year before any lands were sold by the Commonwealth), directing the "Committee for the sale of Eastern Lands," in the conveyance of each township, "to appropriate two hundred acres for the use of the ministry, two hundred acres for the first settled minister, two hundred and eighty acres for the use of the grammar school and two hundred acres for the future disposition of the General Court." By a resolve approved March 26, 1788, the conditions of the first named resolve were somewhat modified, so as to require thereafter in the conveyance of "every township of six miles square," a reservation of "four lots of three hundred and twenty acres each: one for the first settled minister, one for the use of the ministry, one for the use of schools and one for the future appropriation of the General Court."

This resolve continued in force until the separation of Maine from Massachusetts in 1820. In the "act of separation," passed by "General Court" of Massachusetts and approved June 19, 1819, the following occurs in relation to conveyances of land: "In all grants hereafter to be made by either State, of unlocated land within the said district (Maine), the same reservations shall be made for the benefit of schools and of the ministry as have heretofore been usual in grants made by this Commonwealth." The last quoted sentence was incorporated into the Constitution of Maine in 1820 and is now a part of the organic law of the land.

This legislation partakes somewhat of the nature of a contract between parties, that might perhaps be called "high contracting parties." It was one of the conditions in the act that made Maine a State and gave her one-half of all the unlocated lands in the State. It was a contract that neither party could annul without the consent of the other.

In 1824 the Legislature of Maine passed a law from which the following extract is made: "And in all cases where lands have been granted or reserved for the use of schools in any town within this State, the fee in which lands is not already otherwise vested, the same shall be, and is hereby declared to be vested in the inhabitants of such town *for the use and support of schools therein forever.*"

In a suit brought by the State against Cutler, Maine Reports, vol. 16, page 349, where trespass upon reserved lands was alleged, the Court says: "Where the State has no right or title against individuals or corporations, but a mere despotic interference, it is not to be favored. But when it employs its power for the preservation of property, to take which, there is no person in existence, though it is not considered as passing by escheat to the government, it may well enough be considered as entitled to the possession against mere strangers and trespassers. It is not by this construction intended, that the State becomes proprietor absolutely, and so authorized to defeat the terms of the grant made by Massachusetts, but to maintain them for the security of those who may be entitled to the benefit." It would appear that these lands were reserved for a perpetual fund "for the use and support of schools," in the several towns, "forever;" that the State of Maine never owned any part of these lands and consequently can *not* sell or give them away, but is a guardian or trustee "for the security of those who may be entitled to the benefit." It appears to be well settled by law, and sustained by the court, that the State shall have the care and management of these lands (for the benefit of those for whom they were reserved) until the township in which they lie is incorporated into a town.

The Revised Statutes, chapter 5, sections 12 and 13, prescribe the manner in which these lands shall be managed, and what shall be done with the avails of timber sold, as follows, to wit:

"The Land Agent shall have the care of the reserved lands in all townships or tracts until they are incorporated and the

fee becomes vested in the town. He may from time to time sell the timber and grass thereon, or the right to cut the same, for cash." "The Land Agent shall keep an account with each such township and tract, in which shall be entered all expenditures made on account thereof and all sums received therefrom. He shall settle his account of such receipts and expenditures, annually, with the Governor and Council, and pay over to the State Treasurer the balance in his hands, specifying each township and tract from which it was received."

There is no statute conferring upon plantation officers any control over these lands, or the right to appropriate or use the avails of timber and grass cut therefrom. It was a donation from the Commonwealth of Massachusetts for a specific purpose, and no authority is conferred upon any man or body of men to use it for a different purpose.

CYRUS A. PACKARD,

Land Agent.

APPENDIX.

DR. STATE OF MAINE *in account with* CYRUS A. PACKARD, *Land Agent, for the Year Ending November 30, 1884.*

To cash paid on account of charges—Schedule No. 1.	\$363 35	
“ “ “ postage—Schedule No. 2.	47 00	
“ “ “ reserved lands—Schedule No. 3	8 00	
		\$418 35
To cash paid into State Treasury on account of reserved lands—Schedule No. 4.	-	184 33
To cash securities, viz:		
Notes.	6,680 85	
School fund.	1,285 94	
		7,966 79
Cash balance.	-	196 95
		\$8,766 42

CR. STATE OF MAINE *in account with* CYRUS A. PACKARD, *Land Agent, for the Year Ending November 30, 1884.*

By cash securities in Land Office, December 1, 1883, viz:		
Cash balance.	\$138 05	
Notes.	6,787 27	
School fund.	1,285 94	
		\$8,211 26
By cash received from miscellaneous sources, viz:		
For sales of land.	88 25	
“ “ islands.	381 00	
Interest on note.	33 20	
Stumpage of timber cut on reserved lands.	52 71	
		555 16
		\$8,766 42

*Receipts of Cash from all Sources During the Year Ending
November 30, 1884.*

By cash balance, December 1, 1883	\$138 05	
received for sales of land	88 25	
" " islands	381 00	
" interest on note	33 20	
" note	106 42	
" stumpage of timber on reserved lands	52 71	
		\$799 63

Disbursements of Cash During the Year Ending November 30, 1884.

To cash paid on account of charges	\$363 35	
" " postage	47 00	
" " reserved lands	8 00	
		\$418 35
To cash paid into State Treasury on account of reserved lands	-	184 33
Cash balance	-	196 95
		\$799 63

Trial Balance, November 30, 1884.

Folio.	Accounts.	Debit Footings.	Credit Footings.	Debit Balances.	Credit Balances.
1	Balances	-	\$8,211 26	-	\$8,211 26
9	Postage	\$47 00	-	\$47 00	-
27	Interest	-	33 20	-	33 20
28	Notes	6,787 27	106 42	6,680 85	-
33	School	1,285 94	-	1,285 94	-
38	Reserved lands	8 00	52 71	-	44 71
39	Charges	363 35	-	363 35	-
42	Sales of land	-	88 25	-	88 25
43	Sales of islands	-	381 00	-	381 00
44	State Treasury	184 33	-	184 33	-
45	Cash	799 63	602 68	196 95	-
		\$9,475 52	\$9,475 52	\$8,758 42	\$8,758 42

Bills Receivable, November 30, 1884.

NOTES.

PROMISORS.	Date.	Maturity.	Amount.	Interest Paid.	Principal Paid.	Principal Due.	Residencee.
Bragg and Sons ..	Nov. 16, 1869	1870	\$234 96	-	-	\$234 96	Bangor.
Butler, Luther ...	Jan 1, 1850	1851	315 90	-	-	315 90	Ashland.
Cary, S., et al	Mar. 29, 1843	1844	500 00	-	-	500 00	Houlton.
Same.....	" "	1845	500 00	\$ -	\$ -	500 00	Houlton.
Cary, Wm. H., Jr.	Mar. 1, 1853	1855	520 78	104 20	144 29	367 49	Houlton.
Same.....	" "	1856	520 78	-	-	520 78	Houlton.
Fish, Ira, et al ...	Apr. 14, 1828	1828	203 25	172 85	-	203 25	Patten.
Greenbush, town of	Nov. 28, 1851	1851	800 00	-	-	800 00	
Hammond, Joseph	Sept. 11, 1846	1846	61 25	-	-	61 25	Lincoln.
Same.....	" "	1847	61 25	-	-	61 25	Lincoln.
Hussey, Putnam & Co	Jan. 5, 1844	1844	83 75	-	24 62	59 13	Houlton.
Jones, J W. & T. D	May 14, 1851	1851	550 00	-	50 00	500 00	Ellsworth.
Libby, Amzi.	Dec. 1, 1841	1844	15 00	-	-	15 00	Burlington.
Pratt, Job, et al ..	Nov. 16, 1844	1845	30 00	-	-	30 00	Chester.
Same.....	" "	1846	30 00	-	-	30 00	Chester.
Smith, B. D., et al	July 28, 1841	1841	333 00	-	270 00	63 00	Houlton.
Sutton, A. B.	Aug. 19, 1869	1869	1,010 94	-	-	1,010 94	Orono.
Wentworth, Moses	Dec. 3, 1830	1831	59 50	20 12	-	59 50	Ellsworth.
Same.....	" "	1832	59 50	20 12	-	59 50	Ellsworth.
Same.....	" "	1833	59 50	20 12	-	59 50	Ellsworth.
Same.....	" "	1834	59 50	20 12	-	59 50	Ellsworth.
Whittaker, Collins	Jan. 15, 1849	1853	1,160 90	139 30	-	1,160 90	St. John, N. B.
						6,680 85	

SCHOOL FUND.

Fish, Ira D.....	Oct. 30, 1848	1848	54 00	-	-	54 00	Patten.
Johnston, Daniel, et al	Apr. 27, 1841	1841	250 00	-	-	250 00	Prov. of N. B.
McAllister, Abiel,	Apr. 9, 1841	1841	300 00	-	-	300 00	Masardis.
Tracey, S., et al ..	May 20, 1843	1843	363 30	-	-	363 30	Greenville.
Wadleigh, Ira, et al	Jan. 18, 1844	1845	318 64	-	-	318 64	Oldtown.
						1,285 94	

SCHEDULE A.

Lands Conveyed by Deed to Actual Settlers, on the Surrender of Outstanding Certificates, During the Year Ending November 30, 1884.

Date.	Grantee.	Residence.	No. of Lot.	Township.	Acres.	Remarks.	ORIGINAL CONTRACTS.	
1884.								
Feb. 7.	Peter Bergqvist.....	New Sweden.....	128½	15, R. 3,	109.32	U. D.	Granted.....	Feb. 20, 1872.
“ 19.	John Akesson.....	Perham.....	55½	14, R. 4,	99.22	“	“.....	Dec. 1, 1883.
May 28.	Timothy Ouillette.....	Caribou.....	69	I, R. 2,	165.17	“	Joseph Lizotte.....	Aug. 27, 1870.
“ “	Eli Nadeau.....	“.....	125	I, R. 2,	157.66	“	J. B. Levasseur.....	Jan. 20, 1876.
“ 29.	George M Foss.....	Perham.....	54	14, R. 4,	109.79	“	Granted.....	March 1, 1883.
June 10.	Carl J Nilsson.....	New Sweden.....	140	15, R. 3,	111.44	“	“.....	Nov. 27, 1871.
“ “	Carl E. Ericksson.....	“ “.....	119	15, R. 3,	112.58	“	“.....	“ “
“ 21.	Carl Johnsson.....	“ “.....	141½	15, R. 3,	109.16	“	“.....	“ “
July 24.	Samuel Holmes.....	Castle Hill.....	11	12, R. 4,	174.90	“	“.....	Oct. 26, 1883.
Sept. 29.	Theodore Souci.....	Caribou.....	N. ½ 120	I, R. 2,	77.73	“	Zeddo Clare.....	“ 18, 1875.
“ “	Richard Bouchard.....	“.....	S. ½ 120	I, R. 2,	77.73	“	“ “.....	“ “

SCHEDULE B.

Lands Conveyed for Cash During the Year Ending November 30, 1884.

Date.	PURCHASER.	Residence.	No of Lot.	Location.	Acres.	Amount.	Remarks
1883. Dec. 28..	John T. Berry	Rockland	A	Isle au Haut	100.	\$20 00	Order of Council, Dec. 28, 1883.
1884. March 13 .	John S. Arnold	Caribou	174	I, R. 2	146.80	1 00	“ “ March 13, 1884.
“ “	“ “ “	“	23	Woodland	106.43	37 25	Resolve, Feb. 13, 1878.
Jan'y 2..	Otis & Bowditch	Boston	B	Isle au Haut	103.00	30 00	Order of Council, Dec. 28, 1883.

SCHEDULE C.

Lands Contracted to Settlers for Road Labor Securities for the Year Ending November 30, 1884.

Date.	PURCHASER.	Residence.	No. of Lot.	Township.	Acres.	Amount.	Remarks.
1883. Dec. 1.	John Akeson.....	Perham.....	55½	14, R. 4	99.22	\$34 73	L. C.
1884. Feb. 15.	Amzi M. Stephens.....	Merrill	S½ 27	S. W. ¼ 6, R. 4	85.42	29 90	“ “
Oct. 17.	Oren A. Fields.....	Castle Hill.....	23	12, R. 4	115.64	40 48	“ “

SCHEDULE D.

Islands Conveyed for Cash During the Year Ending November 30, 1884.

Date.	PURCHASER.	Residence.	Name of Island.	Location.	Amount.	Remarks.
1884.						
Jan. 3.	H. H. Mather	Newton, Mass.	Mark Island.	Caseo Bay.	\$50 00	Order of Council, December 28, 1883.
" 7.	L. B. Wallace.	Phippsburg.	Little Wood Island.	Near Phippsburg.	5 00	" " December 28, 1883.
April 26.	J. R. Dockray.	Boston, Mass.	Inner Heron Island.	Bristol.	50 00	" " March 6, 1884.
" "	Emma E. Randall.	Mt. Desert.	Three Point Ledges.	Mt. Desert.	20 00	" " March 6, 1884.
May 27.	A. T. Hamilton.	Rockland.	Bar Island.	Muscle Ridge Chan.	10 00	" " May 2, 1884.
June 9.	Jacob S. Mayo.	Tremont.	Seal Rock.	Somes' Sound.	10 00	" " May 1, 1884.
" 10.	John F. Day.	Rockland.	Flagg Island.	Muscle Ridge Chan.	10 00	" " May 2, 1884.
July 9.	Sarah C. Hewitt.	"	Munroe's Island.	Near Owl's Head.	5 00	" " June 27, 1884.
" "	Alden Shea.	So. Thomaston, {	Crow Island.	Outer Muscle, }	10 00	" " June 27, 1884.
" "	"	"	Two Bush Island.	Ridge Channel, }	"	" " June 27, 1884.
" "	Sweetland & Martins.	"	Mosquito Island.	St George.	5 00	" " June 27, 1884.
" 21.	Orlando Ash.	Eden.	Jim's Island.	Deer Isle.	10 00	" " June 26, 1884.
" "	John Conary.	Deer Isle.	Jim's Island Ledges.	" "	5 00	" " June 26, 1884.
" "	"	"	Pond Island Ledges, }	" "	"	" " June 26, 1884.
" "	John F. Church.	Harpwell.	Ram Island, }	Harpwell.	26 00	" " June 27, 1884.
" "	"	"	Turnip Island, }	" "	"	" " June 27, 1884.
" "	"	"	Duck Ledges, }	" "	"	" " June 27, 1884.
" "	"	"	Jaquish Ledges, }	" "	"	" " June 27, 1884.
Aug. 7.	C. C. Achorn.	Rockland.	Fisherman's Island.	Near Owl's Head.	5 00	" " August 6, 1884.
" 8.	J. M. Mason.	Limerick.	Duck Island, }	Isle of Shoals.	150 00	" " August 8, 1884.
" 19.	Stacy & Perkins.	Phippsburg.	Snuttys Nose Island, }	" "	"	" " August 8, 1884.
" "	"	"	Sugar Leaves.	Hunnewell's Point.	10 00	" " August 6, 1884.

APPENDIX.

SCHEDULE E.

Schedule of Certificates issued under a "Resolve in favor of certain Officers and Soldiers of the Revolutionary War and the widows of the deceased Officers and Soldiers," approved March 17, 1835, and an additional Resolve, approved March 26, 1836. Said certificates having never been returned to the Land Office, no deeds have been given of these lots.

No. of Claim.	GRANTEE.	Residence.	No. of Certificate.	Date of Certificate.	Township.	No. of Lot.	Remarks.
137	David Ridley	Windsor	419	January 15, 1838 ..	No. 8, R. 3,	35	
167	Rebecca Adams	Bowdoinham ...	52	August 15, 1835 ...	2, Indian Purchase,	39	Widow of Jedediah Adams.
298	Hannah Dorman	Kennebunkport ..	283	March 30, 1836	3, Indian Purchase,	43	Widow of John Dorman.
397	Thomas Boston	Kennebunkport ..	261	March 29, 1836	3, Indian Purchase,	13	
428	Davis Wasgatt	Mt. Desert	265	March 29, 1836	4, Indian Purchase,	30	
453	Joseph Wardwell	Rumford	121	Sept. 5, 1835	8, R. 3,	105	
514	Edward Wilson	Cumberland	278	March 29, 1836	3, Indian Purchase,	65	
614	Eleanor Means	Freeport	327	April 4, 1836	3, Indian Purchase,	1	Widow of Thomas Means.
624	Hannah Dyer	Sullivan	332	April 4, 1836	3, Indian Purchase,	63	Widow of Ephraim Dyer.
629	Susan Worster	Sanford	333	April 4, 1836	3, Indian Purchase,	27	Widow of Thomas Worster.
630	Zachariah Nowell	Portland	334	April 4, 1836	3, Indian Purchase,	58	
719	Elizabeth Boothby	Limerick	382	October 6, 1836	3, Indian Purchase,	48	Widow of William Boothby.
723	Matilda Dole	Orrington	412	April 27, 1837	8, R. 3,	2	Widow of Amos Dole.
733	Ephraim Haynes	Eden	405	Feb. 16, 1837	8, R. 3,	44	
744	Sarah Jordan	Cape Elizabeth ..	427	March 29, 1838	8, R. 3,	27	Widow of Solomon Jordan.
759	Nancy Fulmer	Bangor	437	July 30, 1838	8, R. 3,	65	Widow of George Fulmer.
791	Sarah Rankins	Lebanon	481	May 12, 1845			Widow of James Rankins.
832	Hannah Heath	Mt. Desert	478	April 18, 1845			Widow of William Heath.

SCHEDULE F.

Lands Now Under Contract to Actual Settlers, who will be entitled to receive deeds upon payment of road labor and the performance of settling duties.

Township B, Range 1—Blaine.

No. of Lot.	Acres	Date of Contract.	No. of Lot.	Acres.	Date of Contract.
60	136.47	Nov. 30, 1859.			

Total, 136.47 acres.

Township F, Range 1—Caswell Plantation.

W. part 150, and N. W. cor. of 153.	158.65	July 23, 1879.	168	192.14	July 22, 1875.
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Total, 350.79 acres.

Township G, Range 1—Hamlin Plantation.

N. W. $\frac{1}{2}$ 41,	91.63	Sept. 5, 1864.			
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Total, 91.63 acres.

Township H, Range 2—Part of Caribou.

54	159.66	June 20, 1843.			
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Total, 159.66 acres.

Township I, Range 2—Part of Caribou.

29	160.11	Nov. 30, 1874.	123	141.00	Nov. 28, 1875.
31	108.04	July 19, 1869.	126	175.41	Nov. 30, 1876.
33	147.32	Oct. 10, 1866.	N. $\frac{1}{2}$ 128	105.03	Nov. 28, 1875.
73	162.67	Dec. 30, 1875.			

Total, 999.58 acres.

South Half of Township No. 2, R. 3—Part of Glenwood Plantation.

69	76.00	Aug. 21, 1868.			
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Total, 76.00 acres.

Township No. 11, Range 3—Chapman Plantation.

66	213.05	Feb. 19, 1880.	97	161.63	Aug. 26, 1879.
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Total, 374.68 acres.

Township No. 13, Range 3 — Washburn.

No of Lot.	Acres.	Date of Contract.	No of Lot.	Acres.	Date of Contract.
32	158.58	Nov. 27, 1873.	3, sec. 1,	159.60	July 3, 1878.
100	161.93	May 10, 1862.			
Total, 480.11 acres.					

Township No. 14, Range 3 — Woodland.

9	158.76	Nov. 27, 1871.	54	96.81	Nov. 27, 1871.
18½	110.70	Sept. 5, 1872.	143	193.53	Aug. 7, 1878.
42	155.26	Nov. 27, 1871.	E.	98.00	July 23, 1870.
51	155.65	Sept. 29, 1873.			
Total, 968.71*acres.					

Township 15, Range 3 — New Sweden Plantation.

2	106.08	Sept. 5, 1872.	81½	112.19	Nov. 30, 1878.
20	108.15	Nov. 27, 1870.	99½	114.26	July 23, 1870.
38	113.19	Nov. 27, 1873.	104	108.39	Nov. 27, 1871.
39	100.94	" "	110	111.99	" "
43	119.36	" 1871.	110½	109.67	" "
49	93.71	" "	114	101.08	July 23, 1870.
69	98.58	Sept. 5, 1872.	128	111.29	Nov. 27, 1871.
77	116.20	Nov. 27, 1871.	129	122.77	" "
78½	111.83	Sept. 5, 1872.	134	106.67	July 23, 1870.
79	119.42	Nov. 8, 1881.	141	110.26	Sept. 5, 1872.
81	112.65	Nov. 27, 1871			
Total, 2,308.68 acres.					

Southwest part Township No. 6, R. 4 — Part of Merrill Plantation.

S. ½ of 27	85.42	Dec 29, 1880.			
Total, 85.42 acres.					

Township No. 12, Range 4 — Castle Hill Plantation.

5	136.83	Feb. 13, 1864.	23	115.64	Nov. 30, 1874.
6	176.80	Feb 19, 1883.	46	179.37	Aug. 1, 1861.
9	146.20	April 30, 1861.	55	159.53	April 20, 1860.
			72	164.75	Nov. 1, 1877.
15	148.25	Feb. 1, 1883.	89	163.20	Feb. 10, 1874.
18	112.94	Jan. 30, 1874.	113	159.31	April 28, 1860.
Total, 1,692.82 acres.					

Township No. 14, Range 4—Perham Plantation.

No. of Lot.	Acres.	Date of Contract.	No of Lot.	Acres.	Date of Contract.
4	119.97	Oct. 22, 1877	72	160.21	Aug. 6, 1877.
21	103.95	Oct. 28, 1878.	89	157.96	Nov. 2, 1876.
51	116.67	Aug. 7, 1878.	103	161.63	Nov. 27, 1878.
61	147.92	Nov. 2, 1876.	137	263.67	Oct. 28, 1878.
66	158.59	July 14, 1875.			

Total, 1,390.57 acres.

Township No. 4, Range 5—Crystal Plantation.

S. W $\frac{1}{4}$ 36 | 167.62 | Oct. 6, 1870. || | |

Total, 167.62 acres.

Township No. 6, Range 5—Moro Plantation.

29 | 172.00 | Aug. 7, 1878. || | |

Total, 172.00 acres.

Township No. 10, Range 5—Masardis.

77 | 145.00 | July 5, 1878. || | |

Total, 145.00 acres.

Township No. 11, Range 5—Ashland.

E. $\frac{1}{2}$ 43 | 124.75 | April 18, 1871 || | |

Total, 124.75 acres.

Township No. 13, Range 6—Portage Lake Plantation.

45 | 120.00 | Oct. 15, 1878. || | |

Total, 120.00 acres.

North half of Township No. 17, Range 6—Part of New Canada Plantation.

35 | 100.10 | Nov. 30, 1876. || 68 | 100.00 | July 14, 1877.
57 | 102.00 | Nov. 30, 1876. || | |

Total, 302.10 acres.

Township No. 5, Range 13.

H, | 130.03 | July 5, 1862 || | |

Total, 130.03 acres.

RECAPITULATION.

TOWNSHIP.	No. of Settlers.	Aeres.
B, R. 1—Blaine.	1	136.47
F, R. 1—Caswell plantation.....	2	350.79
G, R. 1—Hamlin “	1	91.63
H, R. 2—Part of Caribou	1	159.66
I R. 2— “ “	7	999.58
2, R. 3—Part of Glenwood plantation.....	1	76.00
11, R. 3—Chapman plantation	2	374.68
13, R. 3—Washburn.....	3	480.11
14, R. 3—Woodland.	7	968.71
15, R. 3—New Sweden plantation	21	2,308.68
6, R. 4—Merrill “	1	85.42
12, R. 4—Castle Hill “	11	1,692.82
14, R. 4—Perham “	9	1,500.36
4, R. 5—Crystal “	1	167.62
6, R. 5—Moro “	1	172.00
10, R. 5—Masardis	1	145.00
11, R. 5—Ashland.....	1	124.75
13, R. 6—Portage Lake plantation	1	120.00
17, R. 6—Part of New Canada plantation	3	392.10
5, R. 13.....	1	130.03
		10,386.41

REPORT
OF THE
ATTORNEY GENERAL,

UNDER

Resolve relating to Settlers' Lots under the Treaty of Washington.

Approved February 9, 1877.

To the Senate and House of Representatives:

The present generation has come upon the stage since the ratification of the Treaty of Washington, more familiarly known as the Ashburton Treaty, and hence a brief statement of the controversy which resulted in that Treaty may not be a useless preliminary to a consideration of the questions submitted by the foregoing resolve.

In the Treaty of Paris, in 1783, by which American independence was finally acknowledged by Great Britain, the northeastern boundary of the United States was agreed upon in these words. "From the northwest angle of Nova Scotia, (New Brunswick being then a part of that province) viz: that angle which is formed by a line drawn due north from the source of the St. Croix river to the highlands,—along said highlands, which divide those rivers that empty themselves into the river St. Lawrence from those which fall into the Atlantic ocean, to the northwestern most head of the Connecticut river, etc."

The vast wilderness between the Atlantic and St. Lawrence had not then been surveyed, nor much explored. The exact position of the highlands upon the surface was left to be ascertained, neither party supposing that any dispute could arise about the location. As the country was explored it was found that the highlands dividing the rivers of the St. Lawrence from those of the ocean, reckoning the St. John and Restigouche as ocean rivers, were alarmingly near the St. Lawrence in many places, and if made a frontier line would practically cut off all land communication between the Canadas and the British Maritime Provinces. This difficulty led Great Britain to contend that these highlands could not be those named in the Treaty—that the St. John and Restigouche were not ocean rivers, and that the highlands called for by the Treaty of Paris were those dividing the Penobscot and Kennebec tributaries from those of the St. John. The United States of course contended for the St. Lawrence highlands. There was also some disagreement as to the location of the east line of Maine.

Thus it will be seen by an inspection of the map, that a territory larger than Massachusetts became "disputed territory," and the source of much ill feeling between neighboring jurisdictions. By reason of the close proximity of the Fredericton government and the

St. John settlements, the provincials made more use of this territory than our citizens. Several attempts were made to adjust the matter, including the abortive reference to the King of the Netherlands. The irritation kept increasing, and at one time the militia were called to arms, and the bloodless fields of the Aroostook war were made historic.

At length Lord Ashburton, in 1842, came to the United States especially empowered to negotiate a new treaty to settle the vexed question. The negotiations were conducted at Washington by Ashburton and Webster, then Secretary of State. The result was the present treaty, called the Treaty of Washington, or the Webster-Ashburton Treaty. The eastern and the northeastern boundaries were therein fixed as they stand to-day. Each government surrendered some part of its pretensions, but the greater part of the "disputed territory" came under the jurisdiction of the United States.

In concluding this treaty provision was of course made saving the claims and titles of bona fide settlers on the territory. This provision is embraced in the Fourth Article of the Treaty, as follows :

ARTICLE IV.

1. 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.

2. And all equitable possessory claims arising from 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.

3. 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 second clause was evidently derived from our Betterment Law.

Under this article two classes only are confirmed in their possessions, or entitled to confirmation. The third clause does not provide for any unconditional confirmation or releases to any other settlers. The "most liberal principles of equity" do not require an individual nor a State to give away its property without consideration. The "most liberable principles of equity" are satisfied when the settlers receive their titles upon paying a fair price for the land, as it was before any improvements were made.

The only duty at this time on the State was to the two classes of settlers named in the first and second clauses of the fourth article, so far as quieting titles was concerned. Soon after the conclusion of the treaty, the States of Maine and Massachusetts (the latter State at that time owning lands in common with Maine on the disputed territory) appointed joint commissioners, by Resolves of February, 1843, "To locate grants, and determine the extent of possessory claims under the late Treaty with Great Britain." The terms "possessory claims" was construed by the Legislature and the commissioners to be limited to those of settlers who had possessed and improved for more than six years before the treaty.

By a subsequent Resolve, February 29, 1844, the same Maine commissioners were instructed to set off their lots to settlers who had begun possession and improvements before the treaty, but less than six years before. The Land Agent, however, was not to convey such lots except for such price as he should deem just and equitable, and he was to take pay in cash or labor. This resolve was clearly dealing out the "most liberal principles of equity" to that class of settlers.

The report of this commission, dated December 25, 1844, shows that of the lands held by the two States in common, 52,300.87 acres, and of the lands held by Maine in severalty, 1,521.21, were assigned to settlers under the first and second clauses of Article 4 of the treaty. Under the Resolve of February, 1844, 14,941.54 acres were set off, to be conveyed upon payment. All these lands have been conveyed, or the settlers confirmed and quieted in their titles, and nothing remains to be done so far as these settlers or these lands are concerned.

Other persons now come forward with petitions, and even claims for State action in regard to their lots on "the disputed territory."

These were those who had purchased, or contracted to purchase lands of the State more than six years before the treaty; those who had made similar purchases or contracts less than six years before the treaty; those who received grants from the State on condition of maintaining mills, and finally those who had settled before the treaty on private townships known as the Plymouth, Eaton and Deerfield grants, which townships had passed out of the State long before the treaty. The claim made by those who had contracted for or purchased lands more than six years before treaty, was not that their titles should be quieted. The titles were quiet enough under the treaty, but they wanted to be repaid the money they had paid for their lands, inasmuch as their neighbors of similar length of occupation, who had paid nothing got under the treaty a title as indefeasible as theirs. The others all wanted titles or compensation.

I cannot see any legal nor equitable grounds for the claims above named. None of these settlers suffered any loss by the treaty. None suffered any loss by the action of the State in assigning lands to their neighbors under the treaty. Nothing was taken from them. They had every right and privilege they before enjoyed. If I sell white acre to A, and afterward give black acre to B, this creates no sort of obligation upon me to pay back to A the money received from him for white acre. These claims, however, were pushed, and finally the Legislature by Resolve of April 12, 1854, authorized a new commission to examine and report upon these various claims, and also upon those of simple possession and improvement less than six years before the date of the treaty, and also to set off such grants and possessory claims under the treaty as the former commissioners might have omitted. In the same resolve the Legislature announced its desire to convey its title to these claimants so far as it had any, and to procure title for those upon the private townships, or give them other lands equally good whenever Congress should make a suitable indemnity. Subsequently by Resolves of April 20, 1854, the Legislature authorized the Governor and Council upon the acceptance of the report of the commission, to have conveyances made at once of lands at that time belonging to the State to the person returned by said commission as coming within the Resolve of April 12, if such persons desired. The Governor and Council were also authorized to procure a release of title, where the title was not in the State, in favor of such persons as the commission should

find came within the Resolve of April 12, or to convey to them other lands of equal value.

The commission reported March 6, 1855. They located no grants, those having been all finally determined by the previous commission. They located and set off additional "possessory claims" under the second clause of Article 4, from the State lands, 6,507.24 acres. They determined and located similar "possessory claims" on the Plymouth and Eaton tracts—which the State did not own—6,767.71 acres. They reported lots purchased, or contracted, to the amount of 26,888.18 acres. They also set out what they called "equitable possessory claims by reason of possession and improvement, which had not been commenced six years before the date of the treaty," 31,400.06 acres, including 1,339.70 acres on the Plymouth, Eaton and Deerfield grants, which did not belong to the State. The name of the occupant of each lot of these several classes was given, and the report has been regarded as sufficient evidence of each claim named therein. I regret to say that the report of this commission is very scarce, and I have been obliged to use the copy in the possession of a former Land Agent.

The holders of the "possessory claims" on the State lands, were of course entitled under the treaty to have their titles confirmed, and they were confirmed. I repeat, however, that the other claimants were entitled to nothing under the treaty. The State, however, voluntarily by the Resolve of April 20, offered to release its own title, and to procure the release of the titles of others where necessary. This was a voluntary offer and could properly be recalled at any time before the deeds were actually delivered. The State was under no legal nor moral obligation to continue the offer. The offer was in its beginning and continuance a mere bounty. It was not recalled, however, so far as the public lands were concerned, and conveyances were made from time to time to such persons named in the report as called for deeds. The Legislature by Resolve of March 15, 1861, instructed the Governor and Council to have conveyances made to any person coming under the treaty, or any of the previous resolves. This authority was plenary, and no farther action was required upon the part of the Legislature to discharge any obligations of the State, either in law or morals, or to carry out its bounty. Here the matter rested except as the Land Agent made deeds from time to time as called for.

But there is another chapter in the history of these settlers' claims. Congress had never voted any indemnity to Maine for any of her lands taken to fulfill Article 4 of the Treaty. This claim for indemnity, though eminently just, had become somewhat stale, when it was assigned to the European and North American Railway Company. This company undertook the prosecution of the claim in the name of the State, and finally secured its allowance by means of the following amendment to the appropriation bill of 1868 :

“SECT. 10. And be it further enacted that for the purposes of executing the Fourth Article of the Treaty of Washington, concluded on the 9th day of August, 1842, the Secretary of the Treasury is hereby authorized and directed to pay to the State of Maine for 91,125 acres of land assigned by said State to settlers under said article, a sum equal to \$1.25 per acre, and to the Commonwealth of Massachusetts for 26,150 acres of land a sum equal to \$1.25 per acre. Provided, that before said sums are paid, the States of Maine and Massachusetts shall agree with the United States that the settlers upon their public lands in the late disputed territory in Maine entitled to be quieted in their possessions, as ascertained by commissions heretofore instituted by said States, shall have been or shall be quieted by a release of the title of the said States.”

The agents of the company were the agents of the State in the prosecution of this claim. The State expressly authorized the use of its name. The State must be held to have done what its agents have done. The Act of Congress assumes to pay Maine for 91,125 acres of land assigned by her to settlers under the 4th Article of the treaty. This was of course upon the assumption and undoubtedly upon representations made, that Maine had so assigned 91,125 acres. But the total amount assigned by Maine under Article 4, both “grants and possessory claims,” as reported by both commissions, was only 34,178.98 acres, that amount being made up as follows :

Maine's half of 52,300.87 acres undivided lands as found	
by first commission	26,750.48
Maine's lands in severalty as found by first commission . .	1,521.31
Possessory claims by second commission	6,507.24
	<hr/>
Total	34,178.93

The balance was assigned by Maine to various settlers, not under the 4th article of the treaty, but under various legislative resolves, as acts of grace and bounty to sundry of her citizens upon the

disputed territory. I have tried by every possible inquiry to ascertain how this number of 91,125 was made up, but no papers nor memoranda can be found at Augusta or Washington fixing that. The prosecution being by the company, no record seems to have been kept. If, however, the grants and possessory claims in the report of the first commission, and all the claims in the report of the second, except those upon the Plymouth, Eaton and Deerfield grants, (the private townships) be taken, they will amount to 91,127, as follows :

Maine's undivided lands, first commission	26,150.43
Maine's severalty, first commission	1,521.31
Possessory claims, second commission	6,507.24
Contracted for, second commission	26,888.18
Equitable claims, (less Plymouth, &c.) second commission,	30,060.36
Total	91,127.52

This tallies so nearly with the number of acres named in the act, that the amount very likely was made up in that way. It is not very material however. Maine argued and received pay for 91,125 acres alleged to have been assigned to settlers.

But though Maine had not perhaps assigned so many acres strictly under the treaty, she had assigned them, or undertaken to assign them, in consequence of the treaty. The assignment was made by the two sets of commissioners, by whom the lots were run out. This constituted an assignment by the State.

How the amount was made up becomes immaterial in view of the proviso, which requires Maine to agree that *all* the settlers named in either report of said commissioners as upon her public lands and entitled to be quieted, should be quieted by a release of the State's title. Under this proviso it does not matter whether the 91,125 acres comprise *all* the lands. Maine by taking the money agreed to the proviso, and to release to all such settlers to whom she had not already released.

It will be noticed that the proviso only refers to settlers upon public lands, and the 91,125 acres is made up without counting the lots on the Deerfield, Plymouth and Eaton grants. These circumstances exclude these latter lots from further consideration. There can be no claim against the State on their account.

The State then had assigned the 91,125 acres. She had done this by the two commissions before named. Their reports show they

run out and set off to the settlers each his lot. Their field notes and plans in the Land Office show the situation, description and amount of each lot. Each settler, or the person claiming under him, now had his lot defined and set out. He was upon it, and possessing it. All that remained for the State to do was to give deeds to the individuals at this time on the lots before set out and assigned by the commission, in cases where deeds had not been before given.

Accordingly the Governor and Council by order passed Aug. 18, 1868, immediately after the passage of the act of Congress, directed the Land Agent to proceed at once to make deeds of the lots designated in the reports of said commissions, and of which deeds had not been theretofore made. This action was certified to the Secretary of the Treasury at Washington by Governor Chamberlain, and the money paid over to the State, though immediately paid out by the State to the company. The Land Agent appointed Noah Barker to again visit the "disputed territory" and ascertain who were now entitled to the deeds of lots named in the reports of the two former commissions, where deeds had not been given. His report is recorded in the Land Office, though not printed, and gives the names of the parties to whom deeds should have been given at that date.

The Land Agent thereupon began making and delivering deeds to the few who were left unprovided. It was soon discovered, however, that in some cases, the State had previously granted the township in which the lot was situated without making any reserve. As soon as this was known the deeds in such cases were withheld. It was these persons or their assigns who remained "unquieted," and their case was referred to the Legislature. That body by resolve of February 27, 1873, authorized the appointment of another commission to, among other things, "inquire what settlers upon treaty lots have not been quieted in their possessions." Noah Barker was appointed, and upon this point he reported, (see his report January 10, 1874,) that the treaty settlers on No. 9, Range 5, No. 12, R. 6, and west of the 7th range on eight lots north of St. John river,—twenty lots south of the river, and on six island lots, comprising 4,940.53 acres, and being lots specified in the report of the Commission of 1854, as upon public lands were still "unquieted,"—that is, had received no deeds, and this for the reason that in the

deeds of the townships made by the Land Agents no reservations had been made of these lots.

This being an official report, made by a Commissioner appointed for the purpose, I may assume it to be correct. These lots are specified on pages 22, 23, 24 and 25 of the report of the Commissioners of 1854, and on account of the scarcity of copies of that report, I give in schedule "A" annexed a list of them with the then occupants. In addition to those named in schedule "A," as reported by Mr. Barker, I find by examining the records of the Land Office a few other treaty lots specified in the report of the Commission of 1843 or 1854, of which no deeds have been given. I annex a list of such additional lots in schedule "B." It does not appear why these deeds have not been given. They may never have been called for. These parties named in the schedules annexed seem to be the only settlers who have claims that need to be examined.

They had no claims under the treaty. There was no treaty obligation upon the State to do anything for them except to sell on reasonable terms. But they were reported by the Commissioner of 1854 or 1843 as being actual settlers upon the disputed territory prior to the treaty, and as having equitable claims to State grace. They were settlers upon public lands which Maine then (in 1854) owned. They came within the proviso of the act of Congress, to which proviso the State assented. Their possessions had been ascertained by the Commissioners referred to in the proviso. The State therefore agreed with the United States to quiet by a release of the State title these settlers now remaining unquieted or without deeds.

The 5,000 acres of these settlers also went to swell the sum total that the State claimed pay for of the United States. Maine claimed to have assigned these 5,000 acres—that she had parted with them to settlers, as she had indeed practically done by the commissions, and demanded compensation for them, and obtained it. Independent, therefore, of the proviso in the act of Congress, Maine is bound to make her word good by seeing to it that these settlers named in Commissioner Barker's report should enjoy their lands, or should be paid suitable equivalents for such lands as they may be prevented from enjoying. The State has so done with all other settlers.

The United States paid the money upon the understanding clearly implied in the act of Congress, that the whole 91,125 acres were upon public lands—lands belonging to Maine—and that if any

settler still remained without deeds, their lots were still upon public lands, the fee of which was in Maine. The fact, therefore, that the State at the time did not have the fee, but had parted with it to third parties, can make no difference with its honorable and moral obligation in the premises. It is still bound to see to it that these settlers have their deeds, and are not evicted by reason of any act of its own, or that if evicted they have suitable equivalents.

The United States cannot have any claim to the refunding of any part of the money, so long as these settlers are in quiet enjoyment, or Maine renders them suitable satisfaction. The money was not paid over for these settlers. It was no gift to them. Maine in no sense became almoner of Federal bounty. This money was a compensation, a satisfaction to the State, not to the people, nor to these settlers. Maine made no agreement to pay any of this money to any settler.

It agreed to see that the settlers had releases and were not evicted. How the State shall do this is a question between it and the settlers.

Recurring now to the terms of the Resolve under which I am proceeding. I have "examined the question of the right of settlers under the Treaty of Washington," and I have come to the conclusion that the State of Maine is legally and morally held to release by deed its title, whatever that may be worth, to the lots named in the schedules annexed, to the persons named therein or their legal assignees, and in case these parties are lawfully evicted by any person claiming under the State, the State is then legally and morally bound to render them a suitable equivalent, whether in money, land or other valuable thing. The State is not bound to render any particular equivalent. It is not bound to render any equivalent until the settler has been evicted, and that may never be. As I have just before said, the State did not receive the Congressional appropriation in trust for the settler. The settler has no legal nor equitable claim for any part of it.

I do not, therefore, come to the conclusion, that the State is legally and morally for the payment of any sum to any person to fulfill any obligation under the treaty, or act of Congress.

I have above indicated the extent and nature of the obligation resting upon the State in relation to the settlers named. The State should deliver the deeds and make provision in the way of compensation for such cases of eviction as may arise. What provision the

State shall make, and the kind of compensation, are for the Legislature to determine.

By a strict construction of the Resolve my work perhaps properly ends here. It may not, however, be outside of the spirit of the Resolve, for me to suggest some considerations that have occurred to me in the progress of my examination.

The present settlers upon the lots named in schedules "A" and "B," or those under whom they claim, appear to have been in open, notorious and exclusive possession of their lots from since before the date of the treaty, a period of nearly forty years. They do not appear to have been ejected nor disturbed in their possession. They have occupied, made improvements and generally conducted themselves as owners. They have in many cases mortgaged, conveyed, or inherited their lots without let or hindrance. It is probably the case, that in many if not all instances, the occupants have occupied adversely, and their occupation has now ripened into a perfect title by disseisin so far as any third parties are concerned. If any person claiming by grant from the State should essay to eject these settlers, I doubt if a single one would yield possession. I am not ascribing to them any extraordinary litigious propensity in suggesting that each person so assailed would set up a title by disseisin or "twenty years quiet possession," as it is popularly called. It is not ascribing to them any unusual diligence in suggesting that in many cases they might and would adduce evidence sufficient to satisfy the juries of the fact of the disseisin.

It is evident, therefore, that if the State should pay any sums of money to any of these settlers, in many cases the settler would have his land and the money too. He would have an addition to his means, not compensation for an injury suffered. His fellow settler on other townships, who makes no claim, though a treaty settler, would be taxed to add to his fortune. I do not think, therefore, the State is legally or morally held to pay any sum of money to any settler named in schedules "A" or "B" simply because of his name being in that schedule. The settler should show some loss before receiving compensation. He cannot properly demand an equivalent until he shows he has lost the lot run out to him by the Commission of 1843 or 1854. If he has got a good title now he has got all he can claim of the State.

The question as to what settlers have good titles already cannot be determined by any Commissioner. That requires a judicial

tribunal, which can require pleadings and evidence, and adjudicate conclusively. Controversies between individuals must be referred to the courts. The settler in the meantime has title against all the world, except the grantee of the State, and can defend his possession against all other persons.

If any settler establishes a title by disseisin against any person claiming under grant from the State, then such grantee is the only person who can properly make any claim upon the State for compensation. I will not assume to pass upon such claims, as none appear to have been made as yet. Such claims, however, cannot be founded on any covenant of the State, for the deeds under which they hold contain no covenants of warranty, nor quiet assurance. They cannot be founded upon any clause of the treaty, for the treaty nowhere alludes to them. They cannot be founded upon the act of Congress, for as I have before said, the money appropriated by that act was not paid to the State in trust for such grantees, nor any other persons. It was not a bounty designed for them. These claims must be based upon the ordinary claim that a grantee under a quit-claim deed may make upon his grantor in case of failure of title to any part of the premises so quit claimed. Such a claim is good for nothing in law. If the State were suable the courts would reject it as soon as presented. Whether such a claim is good in morals depends upon circumstances. In this case the subject matter of claims of settlers on the disputed territory had long been before the people, and was common knowledge among all persons having any concern with public lands. The report of the two Commissions of 1843 and 1854, and the resolves upon which they acted had been made public. It was every where understood that the State had these settlers in mind, and would eventually convey to them, and only held back to await the action of Congress. It may be safely asserted that the State government never intended to convey away these lots to other parties, and I think it may be assumed that no person purchasing of the State desired or expected to receive the fee of these lots. The State did not intend to sell, and the grantee did not intend to buy the treaty lots upon his township. The non-reservation in the deeds was the slip of the Land Agent. The purchaser paid no more than he would had the reservation been expressed. The State received no more.

It would seem also that this loss by disseisin may have been by the neglect of the grantees to seasonably assert their rights. In

such case the moral claim of the grantee upon the State would be much weakened. These claims, however, can be more fully considered when they come to be made, and the arguments of the claimants are heard.

Recurring again to the settlers, it is apparent that whenever any settler named in schedule "A" or "B," or his grantee, has been lawfully evicted by a superior title under a grant from the State, he has a clear claim for compensation. The State should provide facilities for determining whether such claim is proved in fact, and then promptly pay it.

I would suggest that the Governor and Council be empowered to hear and adjudicate upon such claims when made. The claimant should be required to prove either that he is the person named in the Commissioners' reports, or that he now claims under him, and that he has been lawfully evicted from the lot named in said reports. The latter point could be readily and conclusively proved by a copy of the judgment of the court, and the former could be established by deeds and affidavits. The Governor and Council could be empowered to make their own rules as to procedure and evidence, or the rules could be established by the Legislature.

There only remains to be considered the amount of compensation in case a claim is proved. This may be the same as the United States paid Maine, to wit: \$1.25 per acre, with or without interest, as the Legislature may determine. The evicted settler would undoubtedly be allowed his improvements, and could only claim pay for the soil. He will have had the rents and profits of the lot up to the time of his eviction. If he were so allowed for improvements, and did receive rents and profits, to allow him interest from the State would seem to give him double compensation.

I think a small attorney fee should be allowed the successful claimant to recompense him for the necessary expense of proving his claim. It may be equitable also to allow him the costs and expenses of defending his possession, or some part of them. These are matters of detail, however, for the proper committee of the Legislature.

I think some such provision would accord the settler named substantial and speedy justice in case he is driven from his lands, and yet would protect the State from unjust or groundless claims for compensation.

I cannot close my report without expressing my obligations to Hon. Parker P. Burleigh, the Senator from Aroostook, and to Hon. E. C. Burleigh, Land Agent, for kind assistance in my examination. Neither of them, however, is in any way responsible for any of the reasoning or conclusions herein contained.

Respectfully submitted,

LUCILIUS A. EMERY,

Attorney General.

AUGUSTA, Jan. 31, 1878.

SCHEDULE "A,"

Giving list of persons named in Report of Commissioners of 1854, as being settlers on the public lands on the disputed territory before the treaty, but whose possession had been not over six years before, or persons claiming under such settlers, and who appear by the report of Noah Barker in 1873, to be upon townships granted to other parties.

TOWNSHIP 9, RANGE 5.

No. of Lot.	Name of Settler.	No. of Acres.	Remarks.
	Levi L. Powers.....	100	
	Charles Campbell.....	100	Provided he pays Eben P. Trafton for the improvements, according to the conditions of his deed.
	Thomas McGlaughlin.....	160	
	John Matherson.....	200	
		560	

TOWNSHIP 12, RANGE 6.

1	Charles McCormick.....	168.54
2	Thomas Knowland.....	79.93
3	Llewellyn Pratt.....	103.60
4	Ebenezer McKenzie.....	76.88
		428.95

RIVER LOTS NORTH OF THE ST. JOHN.

1	William Mullen.....	99.20	Near Little Black River.
2	William Mullen.....	100.43	“ “
3	John Harford.....	102.00	“ “
4	John Harford.....	98.32	“ “
5	John Henderson.....	170.43	“ “
A,	John Hughs.....	133.90	Opposite mouth of the Allagash.
1	Martin Savage.....	136.	On the St. Francis near its mouth.
2	Unknown.....	125.50	“ “
		965.78	

SCHEDULE "A"—*Concluded.*

RIVER LOTS SOUTH OF THE ST. JOHN.

No. of Lot.	Name of Settler.	No. of Acres.	Remarks.
1	Martin Savage	170.75	Nearly opposite Little Black river.
A,	Daniel McPeace.....	185.62	" "
2	John Henderson	184.58	" "
4	John and Joseph Diamond ..	107.66	" "
1	Samuel Bolton	137.81	On the west side of the Allagash.
1	John Gardner.....	125.	Below the mouth of the Allagash.
2	John Hughs.....	110.20	Two miles below the Allagash.
B,	William Ouillette.....	333.87	Opposite mouth of the St. Francis.
A,	Cirville Pelletier.....	89.75	" "
1	Paschal Gandreau	146.25	" "
I,	Thomas Neddo	144.75	Near Hunnewell's Island.
A,	Jesse Wheelock.....	69.52	Below Power's lot, No. 14.
B,	Edward Gilbert.....	148.12	Below A. Pt. of this lot is now owned by Louis Albert; des. in d'd to said Albert
	Louis Albert.....		
C,	Magloise Albert.....	238.31	Described in deed from Francis Labee, June 6, 1851. Remainder of said lot.
	Joseph Labee.....		
	Louis Charette	94.05	
	Henry D'Aigle.....	510.68	$\frac{1}{2}$ of said lot on the upper side.
	Vital D'Aigle.....		
	Charles Pelletier.....	148.67	Part on Township 18, Range 7.
G,	Joseph Nadeau, 2d	102.40	" "
H,	Zebulon Berabe.....	7.62	" "
K,	Zebulon Berabe.....	3.89	" "
L,	Zebulon Berabe.....		
		2,859.50	

ISLAND LOTS.

William Mullen	} 29.57	N. $\frac{1}{2}$ } Island a mile below mouth of the S. $\frac{1}{2}$ } Little Bla'k river in St John No 25
Martin Savage		
John Gardner	40	Island below the mouth of the Allagash, No. 23.
John Gardner	5	Hog Island, No. 24.
Richard Egan	9	A mile below the Allagash, No. 22.
Martin Savage.....	22.73	W. $\frac{1}{2}$ of island in mouth of St. Francis, No. 21.
James Grew.....	20	E. $\frac{1}{2}$ of the same No. 21, subject to a mortgage to Benjamin Merrill.
		126.30

SCHEDULE "B,"

Giving list of other lots named in the Reports of the two Commissions, where deeds do not appear to have been given.

IN TOWNSHIP NO. 14, RANGE 6.

No. of Lot.	Name of Settler.	No. of Acres.	Remarks.
	William Winchell	200	In the northwest corner, on public lot.

IN TOWNSHIP NO. 16, RANGE 7.

7 & 8	Richard Wood.....	177	Conveyed to F. Albert Feb. 15, 1847, under Resolve March 11, 1842.
14	Nathaniel Blake.....	115.50	
35	Cefrot Neddo.....	104	
		396.50	

IN TOWNSHIP NO. 18, RANGE 7.

V,	Joseph Nadeau.....	87.50
W,	Joseph Nadeau.....	79.33
A,	Hilanin Charette.....	94.51
B,	Thomas Lenasseur.....	137.00
C,	Dominique D'Aigle.....	47.49
K,	Zebulon Berabe.....	29.45
L,	Zebulon Berabe.....	3.89