

MAINE STATE LEGISLATURE

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B. Haw Jr

July 9, 1970

Austin H. Wilkins, Commissioner

Forestry

John M. R. Paterson

Ownership of Public Lots

SYLLABUS:

The right to cut grass and timber on public lots 15 and 28, T 1 R 13, W.E.L.S., Piscataquis County, has been conveyed by the State of Maine and has not reverted in the State of Maine.

FACTS:

T 1 R 13, W.E.L.S., Piscataquis County, is a township presently part of the unorganized territories of the State. All 36 sections of the township were sold by the State between 1842 and 1844, with the exception of the public lots. The fee title to these public lots remains permanently vested in the State. In 1851 the State Land Agent sold the right to cut timber and grass on lots 15 and 28 to one Abner Coburn, et al. This sale was pursuant to statutory authority found in Chapter 196 of the Public Laws of 1850.

The right to cut said timber and grass was conveyed through a series of unknown transactions to Harry P. Ross in 1923. See Piscataquis County Registry of Deeds, Volume 200, Page 349, and Volume 217, Page 206. The records in the registry also indicate that Harry Ross did not convey away these rights to cut the said timber and grass until 1944 and 1945.

In 1933 and 1934 property taxes on certain sections within the township became delinquent. Pursuant to this tax delinquency, the Treasurer of the State sold the lands at tax sale. These lands were purchased by the Forestry Department. The tax deeds contained the following description of the land:

T. No. 1, R. 13, W.E.L.S., part of, being sections 1, 2, 7, 8, 13, 14, 19, 20, 21, 22, 23, 24, 25, 26, 27, 29, 30, 31, 32, 33, 34, 35 and 36, according to a survey and plan of said township made and returned to the Land Office of the State of Maine by Isaac S. Small in 1842. Said described land with the exception of a farm lot of 160 acres, more or less, in the southwest

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corner of section 31, is reputed to be owned by the estate of Minnie Ross Holman and contains, exclusive of Public Lot, thirteen thousand four hundred thirty-seven acres, more or less(13,437)
All advertised and sold

In 1944 the Legislature resolved to convey "all interests of the State in T 1 R 13 W.E.L.S., Piscataquis County, formerly owned by Minnie Ross Holman," to Harry F. Ross upon payment of back taxes. This payment of back taxes was made and a deed was issued to Ross using descriptive language identical to that found above.

QUESTION:

Does the State of Maine presently own the right to cut grass and timber in T 1 R 13 W.E.L.S.?

ANSWER:

No.

REASONING:

There is no question but that the State sold the cutting rights to timber and grass on these lots. These rights, once conveyed, can be transferred by a transferee from the State. The courts of Maine have long tacitly accepted this fact. See State v. Mullen, 97 Me. 331, 333, 54 A. 841 (1903).

This question can be disposed of easily by a simple analysis of the language in the tax deeds of 1933 and 1934. Those deeds make no mention of the public lots number 15 and 28, or of the grass and timber on those lots. In view of this, it is impossible to say that the State ever reacquired such rights.

Subsequent resolves of the Legislature are irrelevant to this decision. The essence of this opinion is the language of the 1933 and 1934 deeds.

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Nor does this decision decide who presently owns the rights in questions. That is a matter to be determined among the heirs or transferees of Ross. This opinion only finds that the State of Maine has sold the right to cut grass and timber on T 1 R 13, W.E.L.S., Piscataquis County, and has not reacquired those rights through any of the transactions of which we are aware or set forth in the facts.

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JMRP:H