

# MAINE STATE LEGISLATURE

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# RESOLVES

OF THE

ELEVENTH LEGISLATURE

OF THE

# STATE OF MAINE,

PASSED BY THE SESSION

*Which commenced on the fifth day of January, and ended on the second day of April, one thousand eight hundred and thirty-one.*

—◆—  
PUBLISHED AGREEABLY TO THE RESOLVE OF 28TH JUNE, 1830.  
—◆—

Portland.

TODD AND HOLDEN.....PRINTERS TO THE STATE.

1831.

tice law as an Attorney therein, whenever he shall produce to said Court, the evidence usual in such cases, of his having continued in the study of law with some Counsellor at law, in this State, for the term of eight months after the passing of this Resolve; he paying the duty required by law.

*Resolved further*, That the Supreme Judicial Court, be, and they are hereby authorized to admit said Paine, to practice as an Attorney in said Court, whenever he shall have practiced in said Court of Common Pleas, for the term of two years, and as a Counsellor in said Court, whenever he shall have practiced for the term of two years, as an Attorney in said Supreme Judicial Court; he paying the duty required by law.

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### Chapter 38.

Resolve in favor of Bartholomew B. Boies.

Approved March 17, 1831.

*Resolved*, That there be allowed and paid out of the Treasury of the State, to Bartholomew B. Boies, the sum of two hundred and ninety seven dollars, in full compensation for his services rendered to the State; and that the Governor with advice of Council, be authorized to draw his warrant on the Treasurer for the same.

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### STATE OF MAINE.

*House of Representatives, Feb'y 28, 1831.*

The committee to whom was referred a Resolve in favor of Charles Miller and John C. Glidden, and also the petition of Samuel Searle, have had the same under consideration, and Report as follows:—

The Resolve is to authorize the Governor to draw his warrant on the Treasurer in favor of said Miller and Glidden, for the sum of thirteen hundred and sixty-six dollars and sixty-six cents, for completing about nine miles of the Canada Road, so called, pursuant to an appropriation made, and the appointment of said Miller and Glidden for that purpose, by a Resolve of March 17, 1830. The aggregate of the appropriation was, the unexpended balance of the appropriation for the same object made the preceding year, amounting to \$1,331 04; and a new appropriation of \$4,100 00. The latter

was payable in three instalments, the last of which remains unpaid. The two first instalments, together with the unexpended balance, have been paid to said Miller and Glidden. They gave bonds for the faithful construction of the road according to the Resolve, conditioned to complete the same by the first day of November last.

By virtue of the same Resolve of March 17, 1830, said Searle was appointed agent "to examine and inspect said road from time to time, and upon the completion thereof by said Miller and Glidden, to certify to the Governor and Council whether the same has been made and completed, in a good and workmanlike manner." Upon such certificate being made, the Governor was authorized to cause the third instalment of the \$4100 mentioned, to be paid to Miller and Glidden.

The road mentioned is a part of the same surveyed and laid out by Massachusetts in 1817. Prior to the separation, but little was done to construct the road. In February, 1827, this State, by a Resolve, authorized the Governor, by advice of Council, to appoint one or more agents to examine this road as laid out by Massachusetts in 1817, and to make such alterations therein as may be beneficial; to mark the line of the road conspicuously on trees or otherwise, and to make return of their doings to the Governor and Council. The same Resolve further authorized the appointment of one or more agents to cause to be made so much of the road as was laid out over lands belonging to this State, and also one half of that portion which was laid out over lands belonging to this State and Massachusetts jointly: *Provided*, Massachusetts would give assurance that she would make that part of the road which was over her lands, and one half of that part which was laid out over lands of Massachusetts and Maine jointly.

Under the provisions first mentioned, Messrs. Samuel Redington, Joseph Sewall, and Abijah Smith, were appointed agents to examine, make alterations in the route and mark it in the manner above named.

In the meantime, to wit, in June, 1827, Massachusetts by a Resolve of her Legislature, acceded to the proposition of this State contained in the Resolve of February, 1827, and appropriated a township of land by a grant of the same to this State, on the condition that this State should, within two years from that date, make and construct the road, to the acceptance of the Land Agent of Massachusetts, *as laid out by Massachusetts in 1817.*

When Messrs. Redington, Sewall and Smith, reported their doings to the Governor and Council, as contemplated by the

Resolve of February, 1827, they reported and recommended two alterations in the road laid out by Massachusetts in 1817, one of which was embraced in that part subsequently undertaken to be constructed by Miller and Glidden as aforesaid. The character and importance of this alteration may be understood from the following description of it copied from said Agents' Report:—

“Where the principal alteration is made, the road of 1817, crosses the end of *Bald Mountain* for the distance of three or four miles, a rugged route, with hills rising to the altitude of six or eight hundred feet in perpendicular admeasurement, and in some places, for very considerable distances, too steep to be ever crossed by loaded teams, and in one part an almost impassable bed of rocks, and liable also to extreme injury from the mountain stream in rainy seasons, from the force of which we could discover no means of securing the road, however well made, without enormous expense.”

“The new road is laid out West of the old one, and nearly at the foot of the mountain; and shortens the distance and entirely avoids the dangers and difficulties of the old road.”

Said Agents, in addition to this survey and making of the road *West* of Bald Mountain as just described, also surveyed and marked the road *over* the mountain, as laid out by Massachusetts in 1817, that a new survey of that part of the old road, thus cut off by the alteration proposed, might not be necessary, in case Massachusetts should decline to modify the condition of her aforesaid grant, so as to allow the alteration.

The Legislature of 1828, to whom was referred the said Report of Redington, Sewall and Smith, also deemed this alteration of the highest importance. In the report of their committee on the subject, they say, “The Resolve of Massachusetts passed June last, granting township No. 5, of the 2d Range North of the Bingham tract, toward the construction of the Canada Road, required of us two conditions. First, that the road should be completed in one year from next June. Second, that the road should be constructed on the *same* route that was laid out by virtue of a Resolve of Massachusetts, passed June 17, 1817.

“It may be unprofitable and perhaps impossible, for this State to fulfil the first condition; and a compliance with the second would be *mutually injurious to the interests of Massachusetts and Maine*, as will be perceived by reference to the report of the Agents appointed last season by this State. For should the contemplated road pass over Bald Mountain, so called, as does the old one, laid out by authority of Massachusetts, it would completely frustrate one great design of this road, which is, to afford facility to the transportation

of agricultural produce, and other heavy articles of trade. To avoid the aforesaid mountain, the acclivity of which is utterly inaccessible by a loaded team, and nearly so by a travelling carriage, and also to correct several unnecessary deviations in the old route, from a straight line, were the principal objects of the survey last autumn. After strict research, and much labor, the Agents discovered a pass between Bald Mountain and a stream of water, which obviates the difficulty of that hill, and by reference to the plan it will be seen, that the road is straightened in several places, by a route equally if not more level. All the objects of the survey having been thus happily accomplished, by the assiduity of our agents, it now remains for Massachusetts to adopt these corrections, *which we consider indispensable to the future usefulness of the road*, by such alterations of her Resolve of June last, as she may think proper."

The same committee reported a Resolve, accepting the townships granted by Massachusetts aforesaid, on the condition that Massachusetts should accede to the alteration of the road as proposed. This Resolve passed January 24, 1828. And in February of the same year, upon the foregoing representations, Massachusetts passed a Resolve authorizing the Agents of this State "to alter the course and direction of said road, in such a manner as to conform to the route (then) lately examined and reported by the Agents of this State"—Messrs. Redington, Sewall, and Smith, and also extended the time allowed this State to complete the road, to the first day of November, 1830.

Shortly after this, the Land Agent, under authority of this State, sold the township of land thus granted by Massachusetts, the proceeds of which, being \$4,187 60, were expended on the said road. These proceedings on the part of this State, it will be perceived, made it incumbent on this State, not only from interest, but from her agreement with Massachusetts, to construct the road West of the Bald Mountain, and this too, by the first day of November last. And to fulfil this two-fold obligation of interest and agreement, Messrs. Miller and Glidden were appointed Agents as aforesaid, and Mr. Searle was appointed Agent to examine and report said Miller and Glidden's doings. For this last mentioned agency, Mr. Searle, in his petition, prays to be allowed a recompense. But the propriety of allowing either of these claims, must depend on the fidelity with which the business of these Agencies has been executed.

As to his own doings, Mr. Searle certified to the Governor and Council—a copy of which is herewith submitted—that in May last, before any work had been done, he went over the

ground and *carefully* examined the route of said road—that on the first of June, when the work on the road commenced, he attended and *took upon himself the superintendance and direction* of the work, and remained on the ground the greater part of the time until the 19th of October last, when the same was completed.

As to Messrs. Miller and Glidden's doings, Mr. Searle further certified—that they let the work out to sub-contractors—that by these sub-contractors "The whole of the road from the Million acres to the boundary line between this State and the Province of Lower Canada has been *faithfully*, and well made, and is now safe and convenient to pass on with carts and carriages."

If this certificate were true, Mr. Searle is unquestionably entitled to the allowance of his account, and Messrs. Miller and Glidden were entitled to receive the sum mentioned in the Resolve drawn in their favor, when such certificate was filed with the Governor and Council. If said certificate were true, Maine also would have fulfilled the conditions of the Resolve of Massachusetts, on which the township aforesaid was granted by Massachusetts to this State. But it has appeared to your committee beyond a doubt, and from Mr. Searle's own statements and admissions, that the route contemplated by the Resolve of Massachusetts, passed February, 1828, and by the Resolve of this State, passed March, 1830, and under which, Searle, Miller, and Glidden were appointed to act, has not been pursued by either of those agents, although so fully agreed on by the two States as "indispensable to the future usefulness of the road." And although Mr. Searle in his said certificate to the Governor and Council, gave no intimation that any departure from said route had been made by either himself, or Miller and Glidden, your committee find that the road has been constructed exclusively on the route surveyed by Massachusetts in 1817; and the important alteration, adopted by the two States, to avoid "Bald Mountain for the distance of three or four miles, a rugged route, with hills rising to the altitude of six or eight hundred feet in perpendicular admeasurement, and in some places, for very considerable distances, too steep to be ever crossed by loaded teams, and in one part an almost impassable bed of rocks," has been entirely disregarded. As it has been constructed, the road passes over Bald Mountain, and thereby, according to the report of the Legislature of 1828, quoted above, "one great design of this road has been completely frustrated." At any rate, "the principal object of the survey" of 1827, has been lost, and in a manner, according to the further representation of the Legislature of 1828, "*materially injurious to the interests of Massachusetts and Maine.*"

Under these circumstances, whether Massachusetts will confirm her grant to this State, by adopting such a departure from the route which this State has heretofore recommended as indispensable to the future usefulness of the road, cannot now be known, and consequently the whole injury to this State, of the omission of the said Agents to make said road where they were directed, and within the time required, cannot be estimated. There was evidence before your committee in the shape of depositions from sundry persons, that the road constructed by these Agents is safe and good, or equal to that constructed in former years. But more than one third part of it is on a route not authorized; and a portion of this part, over Bald Mountain, can never be secured, "*however well made*, without enormous expense," if the report of Messrs. Redington, Sewall and Smith, already referred to, can be relied on.

One reason assigned by Mr. Searle for constructing the road over Bald Mountain, is, that the sub-contractor of Miller and Glidden absolutely refused to build the road west of the mountain, and said he would rather forfeit his bonds than do so. It does not, however, appear, from Mr. Searle's certificate aforesaid, to the Governor and Council, that he forbid the making of the road over the mountain—but to your committee it appeared that Mr. Searle acquiesced in the selection of that route, and continued, as his said certificate shows, his "superintendance and direction of the work," until completed. It is estimated by Mr. Searle, that it would have cost the contractors from two to three thousand dollars more to build the road west of the mountain, as required by the Resolve of 1830, than it did to build it over the mountain. This was undoubtedly the consideration which induced the alteration from the route preferred by the two States interested.

Another reason for it, assigned by Mr. Searle, is, that he knew the route of the road only by report—that he had not the papers containing the courses and distances with him—that he called on the Governor for them in April last, and the latter promised to forward them to him, but never did so.

It did not, however, appear, that Mr. Searle was ignorant of the route West of Bald Mountain. Messrs. Redington, Sewall and Smith reported that they had marked it conspicuously. Mr. Searle, in his aforesaid certificate, says, that in May last, before the work commenced, he went over the "ground and *carefully* examined the route of said road," and does not intimate that he then met with any difficulty in tracing it. From the conversation, alluded to above, which he says he had with Miller and Glidden's sub-contractors, it would also appear manifest, that Mr. Searle knew the proper route was west of Bald Mountain.



Mr. Miller stated to the committee, that the road was made "according to the direction of Mr. Searle";—that "during the time said work was going on, said Searle was present daily, and gave particular direction as to the place where, and the manner in which said road should be made." Mr. Searle's certificate confirms this statement, in that it says that he, Searle, "attended and took upon himself the superintendance and direction of the work."

Mr. Miller further stated, that he applied to the Governor for the papers relating to the road, its route, courses and distances, and was told by the Governor, that the papers would be sent to Mr. Searle, or that Mr. Searle would have them, and direct the route and making of the road. Mr. Miller also stated, that he informed his sub-contractors in Mr. Searle's presence, that the Governor had made the statement just mentioned, and that Mr. Searle would direct them where to construct the road. Which, not being controverted by Mr. Searle, rendered it obvious to your committee, that Mr. Searle knew that the direction, as to where the road should be constructed, devolved on him exclusively, and ought not to have been made over Bald Mountain.

Under these circumstances, and while your committee cannot know whether Massachusetts will, or will not, hold this State to comply with the condition of her Resolve of February, 1828, which requires the road to be made West of the Bald Mountain, nor that Massachusetts will not reclaim her aforesaid township of land as the road was not made by the first of November last, your committee have not deemed it proper to recommend an allowance of the claims of either of the aforesaid Agents, without the direction of the House upon the foregoing facts, which are respectfully submitted.

FRANCIS O. J. SMITH, Per order.

*To the Governor and Council of the State of Maine.*

The undersigned, under the Resolve of the Legislature passed on the seventeenth day of March, 1830, entitled "Resolve in favor of the Canada Road," having, on the 29th of the same March, been appointed an Agent, to examine and inspect said road from time to time; and upon the completion thereof, by the Agents appointed by the Resolve aforesaid, to certify to the Governor and Council, whether the same has been made and completed in a good and workmanlike manner,

respectfully Reports thereon, and herewith submits his account of his time and expenses in attending to the duties assigned him.

In May last, before any work had been done thereon, I went over the ground and carefully examined the route of said road, and soon after Messrs. Miller and Glidden, the Agents named in the Resolve, who had undertaken to make, or cause to be made, the road as therein described, contracted with Hall Clements, of Waldo, to make two thirds of the same road, and Amos Shed, of Norridgewock, in the County of Somerset, to make the other third part of said road. On the first of June, the said Clements and Shed divided their jobs and commenced making the road, at which time I attended and took upon myself the superintendence and direction of the work. I remained with them and was on the ground the greater part of the time from the commencement of the work until the 19th of October, 1830, at which time the same was completed. The first part of the season and during the months of June and July, there was much rain and the weather was unfavorable for working on the road; in many places and especially the half mile which was left unfinished in 1829, the ground was so wet that it could not be thrown up or worked upon to advantage until September. The contractors however, succeeded in getting the whole done in a faithful and workmanlike manner; the trees have been taken out by the roots, the stones removed; the ground levelled, ploughed and turnpiked; substantial bridges have been built over all the rivers and streams and covered with hewn timber; sufficient water courses, drains and ditches made to carry off the water; and in my opinion the road is made in all respects equal to, if not better, than that part of the road which was finished in 1829, under the direction of Messrs. Whitney, Redington and Johnson. I have also procured twenty-four small brass plates with the number of miles "From Canada Line," engraved on each, and have placed the same on hewn cedar posts by the road at the end of each mile from the line to the Million Acres.

The whole of the road from the Million Acres to the boundary line between this State and the Province of Lower Canada has been faithfully and well made, and is now safe and convenient to pass in with carts and carriages. But inasmuch as some parts thereof, being made late in the season, and not having had time to settle, may be injured by frost in the winter or by rains in the spring so as to need repairs:

The contractors have, in order to be discharged from their obligations, placed in my hands a sum, in my opinion sufficient to make all such repairs on the part of the road made

by them under the Resolve aforesaid, as may be necessary—the next season—all which is respectfully submitted.

SAMUEL SEARLE, *Agent, &c.*

Norridgewock, Nov. 2, 1830.

*Secretary of State's Office,* }  
Portland, January 7th, 1831. }

I hereby certify, that the foregoing is a true copy of the original on file in this office.  
Attest, EDWARD RUSSELL, Secretary of State.

### Chapter 39.

Additional Resolve respecting the Canada Road.

Approved, March 17, 1831.

*Resolved*, That the Governor, with advice of Council, be and hereby is authorized to appoint two persons, Agents, to examine that part of the Canada road made by Charles Miller and John C. Glidden, under a Resolve passed the seventeenth day of March, eighteen hundred and thirty, and to report to the Governor and Council, as soon as may be, the condition of said road, and whether the interests of this State, and of the Commonwealth of Massachusetts require an alteration of said road, so that the same shall be made West of Bald Mountain. And the Governor shall thereafter, as soon as may be, communicate the report of said Agents, or so much thereof as he may judge expedient, to the Governor of Massachusetts, and request the co-operation of that State, with the State of Maine, in making a final selection and completion, of the aforesaid portion of the Canada road.

### STATE OF MAINE.

*House of Representatives*, March 7, 1831.

The Select Committee of the House of Representatives, to whom was referred the "Report of the Secretary of State in relation to the State of the fund for educating Deaf and Dumb Children," have had the same under consideration and Report,—That it appears there are now at the Asylum in Hartford nine dumb and deaf children, supported by the State at the expense of one hundred and fifteen dollars per year, being an annual expenditure of one thousand and thirty five dollars. That of former appropriations, the sum of two