

# 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.

Military property there deposited, and issuing the same upon proper requisitions therefor.

*Resolved*, That there be allowed and paid to the person, so appointed, in full compensation for his labor and services, the sum of two hundred and fifty dollars annually, in quarterly payments; and the Governor, with advice and consent of Council, is authorized to draw his warrant therefor accordingly.

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### Chapter 88.

Resolve granting one set of Greenleaf's Statistical View and Map of Maine to the Trustees of the Westbrook Seminary.

Approved April 1, 1831.

*Resolved*, That the Secretary of State be, and hereby is authorized and directed to deliver to the Trustees of the Westbrook Seminary, one copy of Greenleaf's Statistical View and Map of this State, for the use of said Institution.

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### STATE OF MAINE.

*House of Representatives*, March 28, 1831.

The Select Committee, to whom was referred an order of the 21st instant "instructing them to enquire, whether the timber lands in Townships No. 7 and 8 in the second Range North of Bingham Purchase, East of Penobscot River, were sold agreeably to the provisions of law, and whether the plans and field notes of the survey of those tracts and others have been returned to the Secretary of State as the law directs, and whether the lots which the law requires shall be reserved for public uses have been designated," have attended to the duty assigned them, and ask leave to Report, That they have entered upon the important subject committed to their consideration, with that care and attention which an enquiry into the official acts of one, who until recently held an important office of trust and responsibility under the authority of this State imperiously demands, and with a disposition to sustain his proceedings, if the most liberal construction of the law regulating the sale of the Public lands of this State would permit it.

Your Committee however, are constrained to say, that from

a careful examination of the provisions of said law and of the evidence which has been before them connected with the sale of parts of Townships No. 7 and 8 North of Bingham's Penobscot Purchase, there has been on the part of the late Land Agent, such a departure from its plain and imperative provisions, as to leave but little doubt that the sales made by him in the instances adverted to are void, as not having been made in conformity with the provisions thereof.

With a view that this subject may be fully understood, as well as the grounds upon which the opinion expressed is predicated, the Committee have thought proper to embody in this Report such parts of the law relating to the sale of the Public lands as are pertinent to the enquiry now under consideration, together with such facts as the documents in the Land Office furnish in support of the opinion to which the Committee have reluctantly arrived.

By the Act passed February 20, 1828, the Public lands of the State are divided into two classes, viz. Such as "are considered valuable principally for timber thereon," constitute the first class, and such as come "within the denomination of settling or waste land," constitute the second class. Prior to making sale of any of the lands of the State falling into the first class, it is made the duty of the Land Agent under the advice and direction of the Governor and Council to fix and determine the *minimum price* at which they may be sold, and advertize the same with the time and place of sale in the State paper, and in some newspaper published in the County where the land to be sold is situated, (if any there be) and such other newspaper or newspapers as in the opinion of said Agent the public good requires, *sixty* days at least before the time of sale. It is further provided in said Act, if the Agent cannot sell at Public Auction the whole or any part of the land so advertized, for the lowest price aforesaid or a greater sum, he is then authorized to sell the same at private sale on the best terms he can obtain, not however for a less sum than the minimum price fixed; and in all cases, for the sale of Timber lands, *one fourth* part of the purchase money shall be required to be paid at the time of sale and the residue shall be secured by the notes of the purchaser, with good sureties, payable in three equal annual instalments, with interest annually.

With regard to lands falling into the second class, the Land Agent, under the direction of the Governor and Council, is authorized to sell at public auction or private sale, any quantity of the public lands which come within such class, when in their opinion the same can be done for a fair price, on a credit not exceeding eight years, the interest to be paid annually, and the principal in four equal instalments after the

fourth year—the purchase money to be secured by the personal security of the purchaser, with good sureties or a mortgage of the land purchased; and said Agent is further authorized under the advice and direction of the Governor and Council, to cause any of said lands to be surveyed and divided into lots of not less than one hundred acres each for the purpose of sale and settlement.

By the second section of the same Act, it is made the duty of said Agent to keep correct plans of all surveys to be made under said Act and to *transmit* copies thereof, and of all field notes, to the office of Secretary of State, as soon as may be after such surveys shall have been made; and by the law of 1830, the Land Agent is empowered and it is made his duty to designate the tract reserved for public uses in all townships sold by the State.

In determining whether the sales made by the late Agent, in the cases alluded to, *are* or *are not* legal, it becomes important to enquire whether the lands thus sold by him come within *the first class*, and if so, have the provisions of the law applicable to lands of that description been complied with; from the facts which will be hereafter stated, your Committee have come to the conclusion, that they must be considered as coming within the first class, and as such, ought to have been sold at public auction, and not at private sale. The evidence upon which the foregoing opinion rests, arises from two sources.

First—From the fact that a *minimum price* was fixed to these townships by the Land Agent in concurrence with the Governor and Council; which is only done in relation to timber lands:

Secondly—From the instructions given by the late Land Agent to the person who was designated by him to survey these Townships, and from the return made to the Land Office.

These instructions were, to survey townships numbered seven and eight, in the second range, North of Bingham's Penobscot Purchase, and in relation to No. 7, the Agent observes, "You will survey said No. 7, into lots unless you shall find a large part of it more valuable for timber than settlement, in which case you will survey such part of said Township as may not be valuable for timber;" under these instructions, the surveyor run that part of Township No. 7, which he deemed suitable for settling or waste land, leaving seven thousand, seven hundred sixty seven acres, being the North Easterly part thereof, which in his return he states is *valuable principally for the timber thereon*. As to Township No. 8, the surveyor says, "You will perceive by the return which I transmit by Mr. Powers, that I consider the North part of No. 8, more *valuable for timber* than for settlement."

In addition to the foregoing, the late Land Agent in his communication to the Governor and Council of 24th June, 1830, observes, "I would recommend to the Governor and Council to fix the minimum price of Townships No. 7 and 8, in the second range, North of the Lottery Lands, some parts of which are supposed to be more valuable for timber than settlement," and in pursuance of this recommendation, the minimum price was fixed by the Governor and Council in concurrence with the said Agent.

If these facts establish the position, that the portions of townships No. 7 and 8, sold by the late Agent, were valuable principally for the timber thereon and thus necessarily falling within the first class, it will only remain to enquire whether the sales aforesaid were made in the manner provided by law. Upon this branch of this subject, your Committee find that the North part of No. 8 and the North East part of No. 7, in the second range, North of Bingham's Penobscot Purchase, were disposed of *at private sale* on the twenty-seventh day of September last, by the late Agent, and in pursuance thereof deeds were made and delivered to the purchasers, December 18, 1830, and notes taken for the *whole* amount of the purchase money amply secured as your Committee understand. It however will be seen that these sales were made in violation of the law regulating the disposition of timber lands, and that the provisions requiring the Land Agent to sell such lands at *Public Auction—to advertize them in the State and other papers, sixty days before the day of sale*, and the payment of *one quarter part of the purchase money* at the time of the sale, have been wholly disregarded.

It is difficult to account for the omission of the late Agent to comply with the salutary provisions of the law regulating the sale of timber lands upon any other ground, than an impression on his part that *these* townships did not come within the first class, and that he was therefore at liberty to revise and annul his own decision, and that of the Governor and Council in fixing a minimum price and to disregard the opinion of the Surveyor as to the character of large portions of said townships. Whether it is for the interest of the State to clothe their Agent with powers which effectually repeal many of the important provisions of the Act alluded to, or whether in the exercise of them in the present instance, any injury has resulted to the State, your Committee do not deem it their province to determine.

In connection with this part of the Report, your Committee deem it their duty to call the attention of the Legislature to another transaction of the late Agent, where he exercised similar powers, manifestly in opposition to the opinion of the

Governor and Council, as will appear from the following letter and order of Council.—

“NORRIDGEWOCK, OCTO. 19, 1830.

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

GENT.—The period is so near at hand when it will be necessary for me to make to you a general report of my proceedings, that I shall omit an account of my proceedings in the Land Agency to that time. The object of the present letter is to request a price to be fixed on township No. 3, first range, North of the Lottery lands. Gen. Webber, who has explored it recently, represents it to be land of a poor quality and advises to fix the price at twenty five cents per acre.

I am of the opinion it should be fixed at that and number three, thirteenth range, West of the Monument.

I wish you to *advise* me in relation to the sale of the first named Township. You will perceive by looking at the law of 1828, that none but waste or settling land can be sold without an advertisement in the State paper and another where the land lies, sixty days previous to the sale. I consider it would defeat the sale of No. 3, this fall. I consider it as peculiarly a waste township—it is about 1-3 bog, 5 or 6000 acres poor settling land and the balance settling and timber land and bog interspersed, and no part of it particularly valuable for either. This is the account of Gen. Webber. I wish the opinion of the Gov. and Council whether under these circumstances it is to be considered as waste land, so that I can sell at private sale, as I am satisfied I can now do it at its *full* value, from causes that may not hereafter operate upon it.

With much respect, &c.

M. P. NORTON.”

“STATE OF MAINE.

IN COUNCIL, OCTO. 25, 1830.

The Committee of Council to whom was referred the Communication of Milford P. Norton, Land Agent, dated Norridgewock, October 19, 1830, in relation to the *minimum price* and sale of townships No. 3, 1st range, North of the Lottery lands, and township No. 3, 13th range, West of the Monument, having considered the same—Report, under the existing provisions of the law of 1828, the Committee have doubts of the propriety of putting the first mentioned of these townships into the market as settling and waste lands, and deem it advisable not to fix the minimum price to either township the present year.

Which is respectfully submitted.

(Signed) LEMUEL PAINE, Per order.

IN COUNCIL Octo. 25 1830—This Report on being read was accepted by the Council and by the Governor approved.  
Attest EDWARD RUSSELL Sec'y of State."

Notwithstanding the above order of Council, the first named Township was sold *at private sale* to an individual at Bangor, during the last fall. If this township was as is supposed, valuable principally for the timber thereon, it was the duty of the Agent to have sold the same at Public Auction and given the necessary notice; on the other hand, if it was not of that description, yet the sale *was improper and illegal* inasmuch as the Agent was directed by another order of the Governor and Council, under date of July 6, 1830, "to sell to *actual settlers only*, such lands as were then surveyed and lotted, at such prices as in his opinion would be most advantageous to the State, agreeably to the eighth section of an Act to promote the sale and settlement of the public lands." It cannot be pretended that the sale alluded to, was made to actual settlers, and in any view of the subject which your Committee can take, it is apparent to them that the law and the order of the Governor and Council have been wholly disregarded by the late Agent in making the sale aforesaid.

In relation to the other branches of enquiry submitted to your Committee, they have only to observe, that they do not find that copies of plans and field notes of any surveys made under the direction of the late Agent, have been transmitted to that office as required by law, nor do they find that any designation of the lots reserved for public uses has been made by him under the law of 1830.

Before closing this Report, your Committee would observe that in their opinion, a due regard to the interests of those who have become purchasers of parts of Townships No. 7 and 8, in the second range, and also of Township numbered three in the first range, North of Bingham's Penobscot Purchase, in the ( ) requires that a Resolve should be passed confirming and establishing their title to the several tracts conveyed to them, and for this they have prepared a Resolve which is herewith submitted.

D. WILLIAMS, Per Order.

### Chapter 89.

Resolve confirming the sale of Land by Milford P. Norton, to William Emerson, Samuel Thatcher, Jun'r. Dominicus Parker, John Williams and Ivory Jefferds.

Approved April 1, 1831.

*Resolved*, That the deeds of conveyance made by Milford P. Norton, as Agent to superintend and manage the sale and



settlement of the Public lands, to William Emerson, Samuel Thatcher, Jun'r. Dominicus Parker and John Williams, purporting to convey certain portions of Townships numbered seven and eight, as therein described, and also the deed to Ivory Jefferds, purporting to convey Township numbered three, in the first range, North of Bingham's Penobscot Purchase, as therein described, the former of which, bears date December eighteenth, and the latter December ninth, Anno Domini, eighteen hundred and thirty, be, and the same are hereby ratified and confirmed.

### Chapter 90.

Resolve correcting the State Valuation.

Approved April 1, 1831.

*Whereas* the polls and estates in the town of Madawaska were not by the report of the Valuation Committee taken into the estimate of the polls and taxable estate of this State, therefore,

*Resolved*, That there be and hereby is added three hundred polls, and the sum of five thousand seven hundred and fourteen dollars to the polls and taxable estate of this State, and the same are hereby set to the town of Madawaska in the County of Penobscot, and also to the polls and estate of said County of Penobscot.

### STATE OF MAINE.

PAY ROLL of the Members of the House of Representatives, of the eleventh Legislature of the State of Maine held in Portland, commencing January fifth and ending April second, in the year of our Lord one thousand eight hundred and thirty-one.

COUNTY OF YORK.		Miles travel.	Days attendance.	Amount of travel and attendance.	Amount of additional attendance.	Days of additional attendance.
TOWNS.	MEMBERS' NAMES.					
<i>Alfred</i>	Benjamin J. Herrick	30	86	178	00	
<i>Berwick</i>	Richard Shapleigh	45	88	185	00	
<i>Biddeford</i>	Samuel Emery	20	83	170	00	
<i>Buxton</i>	Joseph Hobson	20	88	180	00	
<i>Cornish</i>	Edmund Trafton	35	88	183	00	
<i>Elliot</i>	Timothy Spinney	55	73	157	00	
<i>Hollis</i>	Jabez Bradbury	20	88	180	00	