

MAINE STATE LEGISLATURE

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RESOLVES

OF THE

THIRTEENTH LEGISLATURE

OF THE

STATE OF MAINE,

PASSED AT THE SESSION

WHICH COMMENCED ON THE SECOND DAY OF JANUARY, AND ENDED ON
THE FOURTH DAY OF MARCH, ONE THOUSAND EIGHT
HUNDRED AND THIRTY-THREE.

PUBLISHED AGREEABLY TO THE RESOLVE OF JUNE 28, 1820.

AUGUSTA:

I. BERRY & CO., PRINTERS TO THE STATE.

1833.

Chapter 84.

Resolve in favor of Alvan Bickford.

Approved March 4, 1833.

Whereas Alvan Bickford a Member of the House of Representatives, whilst attending upon the service of the State, the present Session, has been taken sick and is now unable to return home, and must necessarily be subjected to considerable expense by reason of his sickness. Therefore

Resolved, That there be allowed and paid out of the Treasury of this State, to said Bickford in addition to his pay for travel and attendance for the whole of the present Session, the sum of Fifty Dollars.

STATE OF MAINE.

HOUSE OF REPRESENTATIVES, February 25, 1833.

The Joint Standing Committee on State Roads, to whom was referred the petition of Charles Miller and John C. Glidden, have had the same under consideration, and report the following statement of facts—

In 1817 the Commonwealth of Massachusetts laid out a road over the public lands to the Canada line—In 1827, Messrs. Redington, Sewall and Smith, were appointed, under a Resolve of the Legislature, Agents to examine the route designated by Massachusetts, and to make such alterations as they should deem expedient—These gentlemen reported two alterations, one of which, a distance of three miles was embraced in that part of the road subsequently undertaken to be constructed by the petitioners—This proposed alteration, was westward of the route and avoided Bald Mountain, over which the Massachusetts Road passed—The proposed alteration was adopted by the Legislature of 1828, assented to by Massachusetts, and the grant of a township, granted for the purpose of making this road, confirmed by Massachusetts, on condition of the road being made on the route proposed by Redington, Sewall and Smith, and the time extended for the completion of the road to Nov. 1830.—By a Resolve of the Legislature of March 17, 1830, the sum of \$4100, in addition to the unexpended balance of the preceding year \$1331 04, was appropriated for the purpose of making and completing, that part of the Canada Road,

then unfinished, the same being about nine miles in length, on the route examined and reported by Messrs. Redington, Sewall and Smith, and which had been adopted by both States. By the same Resolve Messrs. Miller and Glidden were appointed Agents to make or cause to be made the road as described, for the sum appropriated without any further compensation for their services as Agents; and were required to file in the Office of the Secretary of State, a sufficient bond for the faithful discharge of their duties. And the Governor was authorized on the filing of such bond, to draw his warrant on the Treasury for the unexpended balance of 1829 and also for one third of the appropriation of \$4100—The remaining two thirds of the \$4100, was to be paid said Miller and Glidden, one half in three months and the other half when the road should have been by them completed—By the same Resolve the Governor was authorized with advice of the Council, to appoint an Agent, whose duty it should be to examine and inspect said road from time to time as he might deem necessary, and upon the completion thereof by said Miller and Glidden, to certify to the Governor and Council, whether the same had been made and completed in a good and workmanlike manner; upon which certificate the Governor was authorized to cause to be paid to said Agents Miller and Glidden, the balance then due them—It was also provided by the same Resolve, if said Miller and Glidden should not file their bond as aforesaid, that the Governor with advice of Council should direct the superintending Agent, to make or cause to be made the aforesaid unfinished part of said road.

On the 18th of March 1830 Miller and Glidden, filed their bond with sufficient sureties in the Office of the Secretary of State, for the faithful discharge of their duties as Agents.

Samuel Searle of Norridgewock, was appointed superintending Agent by the Governor and Council; and on the 2d of Nov. following certified that Hall Clements of Waldo, and Amos Shed of Norridgewock, contractors under Miller and Glidden, had completed the road, in a good and workmanlike manner—It subsequently appeared, that about three miles of the road, thus made under the direction and superintendence of Searle, was made on the old route of 1817, and not on the route examined, and reported by Messrs. Redington, Sewall and Smith; in consequence of which deviation, the Governor and Council refused to cause to be paid to Miller and Glidden, the sum of \$1366 67 the amount of the last instalment, which was due to them on the completion of their contract.

It is for this sum of \$1366 66 and interest, since Nov. 2, 1830, and the costs and expenses of two lawsuits, estimated at from three to four hundred dollars; one of which suits was commenced against the said Miller and Glidden, in Waldo County by Hall Clements one of the sub-contractors; and the other was commenced by them against one of the sub-contractors and

his sureties on their bond in Lincoln County; and for the sum of \$121 94 and interest since Nov. 2, 1830, that the petitioners now pray to be reimbursed.

In support of these claims the petitioners have substantiated, that Charles Miller, on the 18th of March, after filing the bond of Miller and Glidden, called upon the Governor and Council, and requested to be furnished with the plans and papers necessary to direct them in the making the road, and was informed by the Governor that the necessary papers would be placed in the hands of the superintending Agent, who would direct them where to make the road—And by the deposition of the then Governor, Jonathan G. Hunton, taken to be used in the actions between Hall Clements and the petitioners, it is stated “that during the session of the Governor and Council for 1830, in April, he (Hunton) thinks the copy of the Resolve, and papers therewith connected, in relation to the Canada Road, was made out by the Secretary of State, and was directed by him, as Governor, to be forwarded by Mr. Stewart, the Counsellor from Somerset, to Mr. Samuel Searle, the Agent appointed to superintend the making of said road.”—Mr. Stewart, the Counsellor, in his deposition also stated, “he gave the papers to some person to deliver to Mr. Searle, but he does not know that Searle received them—he thinks Searle told him he had received them, but he is not certain.”

It was also proved, that Hall Clements, one of the sub-contractors, at the term of the Court of Common Pleas in July, 1831, in Waldo County, instituted a suit against said Miller and Glidden, for payment for making two thirds of said road, including two thirds of the deviation, and at the August Term, 1832, of the Supreme Judicial Court in that County, obtained a verdict for the full amount due him on his contract, on the ground that the certificate of the superintending Agent was conclusive, that “the road had been made and completed in a good and workmanlike manner, and within the allotted time.”

It was also proved that Miller and Glidden commenced an action against said Clements and his sureties, in Lincoln County, for a breach of the condition of their bond, in not having made the road on the route designated by the Resolve of the Legislature of the State of Maine, passed March 17, 1830—This action was not decided, but the Court plainly intimated the opinion that the certificate of the superintending Agent would be a sufficient defence.

In support of the claim for \$121 94, the petitioners adduced a bill of sundry tools and provisions, which had been left on the road, and were taken by them at the valuation, \$383 49, in part payment of the first instalment, with the understanding, that if it should prove that any of the articles were missing, or had been over-valued, a deduction should be made—The petitioners turned over these same articles to the sub-contractors

with the same understanding on their part—A second valuation was produced which showed that many of the articles were over-valued, and many were missing. For the difference between the two valuations, \$121 94, an action was brought by the sub-contractors against the petitioners, and that amount recovered.

In addition to the foregoing statement of facts, your Committee feel under obligation to remark, in their opinion, the interest of the State, and her obligations to the Commonwealth of Massachusetts, required the road should have been made on the route designated by Redington, Sewall and Smith; that Miller and Glidden were under obligations to have made it or have caused it to be made on that route; but there was nothing to warrant any suspicion [that] there was any knowledge on their part of the deviation, or any connivance in the fraud which was attempted to be practised on the State; and that the whole difficulty has arisen from the gross misconduct of others.

The Committee do not express any opinion as to the justice of the claim preferred by the petitioners, excepting so much of it as relates to the allowance of the difference between the two valuations of the articles left on the road, to which they have no doubt the petitioners are fairly entitled.

In consideration of these circumstances, your Committee determined to report the Resolves which are herewith submitted.

CHARLES JARVIS, *Per Order.*

Chapter 85.

Resolve in favor of Miller and Glidden, late Agents on the Canada Road.

Approved March 4, 1833.

Resolved, That there be allowed and paid, out of the Treasury of the State, to Charles Miller and John C. Glidden the sum of One Hundred and Thirty Nine Dollars, in full for deduction on tools and provisions, left on the Canada Road, and taken by them at a price, subject to a valuation afterwards to be made.

Resolved, That, provided said Miller and Glidden shall, on or before the first day of June next, commence the making of that part of the Canada Road, around the Bald Mountain, which was laid out by Messrs. Redington, Sewall and Smith, and which has not yet been completed, with a reasonable prospect, in the opinion of the Agent of the State, for the time being, upon said road, that said road will be completed in the course of the ensuing season, there shall be paid to them, at the time of commenc-

ing said work as aforesaid, the sum of Five Hundred and Twenty Dollars, and when, in the opinion of said Agent, one half of the unfinished part of said road shall have been completed by them, there shall be paid to them the further sum of Five Hundred and Twenty Dollars; and a still further sum of Five Hundred and Twenty Dollars shall be paid to them, when the whole of said unfinished part of said road shall have been completed to the satisfaction of said Agent, of which he shall furnish his written certificate: and said sums, when paid as aforesaid, shall be in full for the last instalment, payable to said Miller and Glidden, by a Resolve passed the seventeenth day of March one thousand eight hundred and thirty.

Chapter 86.

Resolve for the benefit of David Mosher.

Approved March 4, 1833.

Resolved, That John Pitts, Administrator of the estate of Hannibal Dillingham, deceased, is hereby authorized to deed and convey to David Mosher, his heirs and assigns, all the right, title, and interest which the said Dillingham, at the time of his decease, had in a lot of land, numbered thirty eight on Fifteen Mile lot B. one, situated in the town of Rome; it being in fulfilment of a written contract made by said Dillingham in his life time, the consideration money having been paid to said Administrator pursuant to said contract. And said conveyance, when made by said Administrator, shall have all the force and validity and effect as if it had been made by said Dillingham, while in full life.

Chapter 87.

Resolve in favor of Samuel W. McMahon.

Approved March 4, 1833.

Resolved, That there be allowed and paid out of the Treasury of the State to Samuel W. McMahon the sum of