

MAINE STATE LEGISLATURE

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ACTS AND RESOLVES

4628

PASSED BY THE

TWENTY-SECOND LEGISLATURE

OF THE

S T A T E O F M A I N E ,

A . D . 1 8 4 2 .

Published by the Secretary of State, agreeably to Resolves of June 28, 1820, February 26, 1840, and
March 16, 1842.

AUGUSTA:

Wm. R. SMITH & Co., PRINTERS TO THE STATE.

1842.

PUBLIC LAWS

OF THE

STATE OF MAINE,

1842.

to cause the several sums so adjudged due, other than for moneys deposited, to be paid and discharged out of said assets, and after deducting all necessary expenses allowed by the court to cause the rest and residue of said assets and the proceeds thereof to be distributed and paid according to equity and good conscience, to and among the several depositors in proportion to their respective claims.

SECT. 4. The trustees of institutions for savings and the receivers appointed by the court as herein provided, shall have full power to compromise and adjust with any debtor of such institution any debt due the same, on such terms and conditions as they may respectively think most for the interest of the depositors; *provided*, that this act shall not interfere with or apply to the suit of any depositor which shall have been defaulted or upon which a verdict shall have been rendered for the plaintiff prior to the passage of the same.

Powers of trustees and receivers in relation to compromise.

Proviso.

SECT. 5. This act shall take effect and be in force so soon as it shall have been approved by the governor.

When to take effect.

[*Approved March 18, 1842.*]

Chapter 33.

AN ACT additional to an act in relation to public lands.

Be it enacted by the Senate and House of Representatives in Legislature assembled, as follows:

SECT. 1. That whenever any of the settling lands belonging to this state shall be surveyed into lots for settlement, as provided in chapter three, and section fifteen, of the revised statutes, if the same or any part thereof, shall be occupied or improved, it shall be the duty of the surveyor to locate the lot on which such occupation or improvement shall be found, in such a manner as to secure as far as may be, without material injury to adjoining lots, the benefit thereof to the person entitled thereto. And the surveyor shall return to the land office the field notes of his said survey, together with the names of the persons who have made such improvements, and the numbers of the lots on which they reside, and also the numbers of the lots on which said improvements have been made; and any person residing on any such lot surveyed as aforesaid, and any person who has made such residence or improvements upon any such lot surveyed before the passing of this act, who shall notify the land agent of such residence or improvement and furnish

Duties of surveyors in relation to the survey of settling lands as provided in the R. S. ch. 3, § 15.

Field notes, &c. to be returned to the land office.

When settlers shall be entitled to preemption.

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him with satisfactory evidence of his said residence or improvement, shall be entitled to the preemption of the lot or lots, so occupied or improved by him, at any time within six months after said notice, or in case no such notice shall be given, within six months from the time the surveyor shall make his return as aforesaid.

Duties of applicants for settling land.

R. S. ch. 3, § 26, 27.

When right of preemption forfeited.

SECT. 2. In all applications for settling land the applicant shall be required to pay one fourth of the price of the lot in cash at the time of the application, and shall perform the settling duties prescribed in the twenty sixth and twenty seventh sections of the third chapter of the revised statutes, and also within two years from the time of application shall become a resident on said land and continue such residence for the term of two years at least before such applicant or his assignee shall be entitled to receive a deed. And if any applicant, after receiving a certificate from the land agent, as provided in the eighth section of this act, shall not within one year make some improvement on said lot, the land agent may give permission to any other person to enter upon the same, and if the applicant shall not within two years from the date of such certificate establish his residence thereon, he shall forfeit his right to purchase the same, and the land agent may dispose of it to any other person.

Certain lands may be sold by auction.

SECT. 3. All lands except settling lands, that now are or may hereafter become the property of the state in any incorporated town south of the ninth range of townships north of the Waldo patent, and the fourth range of townships north of the lottery lands, may be sold by the land agent at public auction, as prescribed in the fifth section of this act, in such quantities as he may deem expedient; but before offering said lands for sale, the land agent shall cause the same to be appraised agreeably to section five.

To be appraised before sale.

Of the sale of islands and certain reserved lots.

SECT. 4. The land agent may sell at public auction or private sale any islands belonging to the state, also the lots reserved for the future appropriation of the legislature of Massachusetts which were assigned to the state of Maine by the commissioners appointed under the sixth article of the "separation act," in such quantities as the public interest may require.

Minimum price to be fixed upon lots offered for sale by auction. Sales to be made in August.

SECT. 5. All public lands except settling lands held by the state of Maine in severalty, shall be offered for sale at public auction at a minimum price to be fixed upon each lot by the land agent. All sales of land, which may be made at public auction under the provisions of this and the two preceding sections, shall be made in the month of August, and the land agent shall give at least sixty days' notice of the time and place of any such sale, and a description of the land to be sold, by advertising the same in the public

Mode of notice.

newspaper of the printer to the state, one paper printed in Portland, one in Augusta, and one in Bangor. And if the newspaper of the printer to the state be published in either of those places, it shall not be necessary to publish in any other paper in that place. If any bidder at any such sale shall fail to satisfy the land agent forthwith that he will comply with his bid and with the terms of sale, the same shall be immediately offered again, and if such person shall again bid upon said land, the land agent shall not receive such bid or consider it an offer for said land. All lots or sections shall be offered and sold separately, not exceeding seven hundred acres in any one lot or section.

Proceedings at sale.

SECT. 6. Any lands surveyed as settling lands, according to the fifteenth section of the third chapter of the revised statutes, may be sold under the conditions prescribed in the second section of this act, at a price not less than fifty cents per acre; and the payments therefor shall be made one fourth in cash, and the other three fourths in labor in making roads within the limits of the township in which said land is situated, under the direction of the land agent.

Conditions of sale of lots surveyed according to the R. S. ch. 3, § 15.

SECT. 7. The land agent shall not give to the purchaser of any public lands, which may be sold under the provisions of this act, any deed of conveyance of the same until payment shall be made in full, and all other conditions of sale shall have been fulfilled by the purchaser or his assigns.

Deeds not to be given, until payment is made in full and all other conditions of sale complied with.

SECT. 8. When any land shall be applied for to the land agent, as provided in the second section of this act, the land agent shall give to the applicant a certificate setting forth the terms and conditions of the contract, the amount received in cash, the amount to be paid, and a description of the land, which certificate shall entitle the lawful holder to a deed of the same from the land agent, on the fulfilment by the applicant or his assigns of the conditions set forth in said certificate. The land agent shall keep a record of all certificates issued by him, and such certificate shall be transferred only by assignment under seal.

Certificates to be given to applicants for settling lands, stating terms of contract, &c.

SECT. 9. All payments for the public lands which may be sold by the land agent, under the provisions of this act, both of lands held by this state in severalty, and lands held by this state jointly with Massachusetts, shall be made in cash at the time of sale, except as provided in the sixth section of this act.

Of the record and transfer of certificates.

Payments of public lands to be made in cash.

SECT. 10. The land agent shall appoint some suitable person, whose duty it shall be at least twice a year to examine every township which shall have been lotted for settlement, to locate such roads as may be necessary for the convenience of the settlers, to

Proviso.

Special agent to be appointed.

Powers and duties of the same.

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collect the amount that may be due from them and others for making roads, to direct upon what roads the labor shall be expended, to superintend the opening and making of such roads, either by contract or otherwise, to determine the price of labor when performed by the day, to examine all questions of preemption right, and all matters of dispute between the settlers, where the state may be interested as a party, and to report the facts to the land agent, and to perform all other duties in relation to said lands which may be required of him by the land agent. And such person shall be governed in all his acts by the law and such written instructions as he may receive from the land agent, to whom he shall make a written report of all his doings on or before the first day of December of each year. And said agent shall receive for his services, a sum not exceeding two dollars per day, for the time actually employed in said service.

To report his doings to the land agent.

Compensation.

Land agent to compile a list of lands forfeited to the State.

Publication of the same.

Conditions of redemption, &c.

SECT. 11. The land agent shall, on or before the first day of May next, make out a full and complete list of all such lands as were forfeited to the state, prior to the first day of January, A. D. 1842, for the non-payment of the purchase money or for other conditions not performed, describing the several lots or tracts, the number of acres and the names of the purchasers, and shall publish the same in the state paper, one paper in Bangor, one paper in Portland, and one paper in Augusta. And he shall annually thereafter in the month of January of each year, publish a similar list of all the lands forfeited to the state, during the year then next preceding.

SECT. 12. The original purchasers or any person claiming under such original purchasers of any lands which may have been advertised as prescribed in the preceding section, shall have the right to perfect his or their title to the same, by paying into the land office the amount due to the state for the same, within one year from the date of such advertisement, and no longer. And any person actually residing on any of said land which shall not be redeemed as aforesaid, whether an original purchaser or not, and who shall file in the land office, within one year from the date of such advertisement as aforesaid, written evidence satisfactory to the land agent, that he actually resides on and is improving such land, shall be entitled to purchase the lot so occupied by him at any time within one year from the expiration of the original purchaser's right to redeem the same, as aforesaid, by paying in money the original price for which such lot was sold. And in all such sales to actual settlers, the land agent shall deduct from the price of said lot all sums received by the state for such lot.

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SECT. 13. All lands belonging to this state held in severalty or jointly with Massachusetts, which have been sold prior to the first day of August, in the year of our Lord eighteen hundred and forty one, and which shall not be redeemed or sold as provided in the preceding section, shall be subject to sale according to law in the same manner as other lands.

All lands owned jointly with Massachusetts, subject to sale in same manner as other lands.

SECT. 14. All lands which have been sold by the land agent prior to the first day of August, in the year of our Lord eighteen hundred and forty one, may be declared by the land agent to be forfeited lands upon the non-payment of the notes given for the same within the time specified in the note having the longest time to run.

When lands sold prior to Aug. 1, 1841, may be declared forfeited.

SECT. 15. The land agent shall not sell the moiety of this state in any township or tract of land held jointly with Massachusetts until the same shall have been surveyed into lots not exceeding seven hundred acres. And if there shall be any settlers upon any such township or tract the surveyor shall run out to each settler a lot not exceeding one hundred and sixty acres, and shall make return to the land office of the names of all such settlers, with the description and number of the respective lots so occupied.

Lands held jointly with Massachusetts, not to be sold until surveyed into lots.

SECT. 16. Every surveyor employed to survey the public lands shall be required to explore each lot carefully, to ascertain the quantity and quality of pine, spruce and other valuable timber on each lot, and the quality of the soil, and shall give all other valuable information which may aid in forming an estimate of the value of such land. He shall return correct duplicate plans and field notes of his surveys to the land office in sixty days after the survey shall be completed, with the quantity and quality of the different kinds of timber on each lot ascertained as aforesaid.

Duties of surveyors of the public lands.

Duplicate plans and field notes to be returned to land office.

SECT. 17. The land agent may sell the part belonging to this state held jointly with Massachusetts, except such lots as may be reserved for settlers, in the same manner and shall be governed by the same rules and regulations as are prescribed in the fifth section of this act, and in all cases the proportion of the purchase money belonging to this state shall be paid in cash at the time of sale.

The portion of lands held jointly with Massachusetts belonging to this state, may be sold under the regulations prescribed in § 5.

SECT. 18. So much of the "resolve respecting the sale, disposition, and management of the public lands belonging to the commonwealth of Massachusetts and the state of Maine jointly and of lands belonging to said states in severalty," approved March 9th, 1832, as authorizes the sales of timber, or the sale of lands in larger quantities than sections of seven hundred acres each, or at private sale, is hereby repealed.

Part of the resolve of March 9, 1832, repealed.

SECT. 19. Not more than three townships of timber land shall

Three townships only to be sold in any one year.

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Timber lands to be examined before sale.

be sold in any one year. And before offering any timber lands for sale the land agent shall cause the pine, spruce, cedar, and juniper timber on each lot to be thoroughly examined by men well qualified for the duty, who shall make duplicate reports to the land agent of the quantity and quality of the several kinds on each lot, together with all other information that can be obtained that shall have a bearing on the value of said timber.

Sales of land by auction may be adjourned for 60 days, in certain cases.

SECT. 20. If any lands offered at auction, at the annual sale specified in the fifth section of this act, shall remain unsold, at the close of said sale, the land agent may adjourn said sale for sixty days, and again offer said lands as before, but not at a reduced price. Any lands remaining unsold, which have been offered at auction the preceding year, may again be offered at auction at the annual sale, at such price as the land agent may then fix.

County commissioners to have the care of reserved lands.

SECT. 21. In all unincorporated townships or tracts of land sold or granted by this state or the commonwealth of Massachusetts, in which lands have been reserved for public uses, the county commissioners for the county in which such lands are situated shall have the care of such lands, and shall protect them from strip or waste by trespassers, until said townships or tracts shall be incorporated. And where such reservations have not been located, and there is valuable timber, or grass, on the township or tract, which is being taken off or liable to be taken off by trespassers, the said county commissioners shall cause said reserved lands to be run out and located by a committee to be appointed by the district court in the county where the land lies. And in all cases where application is made to said court by the commissioners for a committee to locate any reserved lands, the same proceedings shall be had as are provided in chapter one hundred and twenty two of the revised statutes, on application of the assessors of any town or plantation. The county commissioners shall have full power to seize and sell any timber, grass or hay, cut by any trespassers on said lands, and pay the proceeds of such sales into the county treasury, first deducting all reasonable expenses.

Reservations to be located by a committee to be appointed by the district court.

Proceedings on application for the appointment of a committee. R. S. ch. 122.

County commissioners may seize and sell timber, &c. cut by trespassers.

Liabilities of trespassers.

R. S. ch. 3, § 41, 42.

SECT. 22. All persons committing trespass on any of the reserved lots, located as provided in the preceding section, shall be subject to all the liabilities and penalties of the forty first and forty second sections of chapter three of the revised statutes, which are applicable to trespassers on public lands.

County treasurers to receive and account for moneys paid them by county commissioners.

SECT. 23. The treasurers of counties shall receive all monies which may be paid them as aforesaid, by county commissioners, keep a just account thereof, and pay the same to treasurers of towns, rightfully owning it, whenever applied for.

SECT. 24. Sections eight, nine, twenty one, twenty two, twenty three, twenty four, twenty five, twenty eight, twenty nine, thirty, thirty one, thirty two, thirty three, and thirty four of the third chapter of the revised statutes, be and the same are hereby repealed.

[Approved March 18, 1842.]

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R. S. ch. 3, § 8, 9, 21, to 25 inclusive, and 28 to 34 inclusive, repealed.

Chapter 34.

AN ACT to alter the mode of advertising real estate for non payment of town taxes.

Be it enacted by the Senate and House of Representatives in Legislature assembled, as follows :

Instead of advertising for nonpayment of taxes on real estate, in the newspaper published by the printer to the state and in some other paper printed in the county, as required in the seventy seventh section of chapter fourteen of the revised statutes, the said advertisements shall be published only in one paper, if any there be, printed in the county, three weeks successively; and if there be no paper printed in such county, then in the paper published by the printers to the state; and the county commissioners of the several counties shall, from time to time, designate the papers, in which the town treasurers in their respective counties shall publish such advertisements; *provided*, that this act shall not apply to taxes on non resident lands, and that lands taxed to owners unknown shall be deemed non resident lands.

Mode of advertising real estate for non payment of town taxes.

Proviso.

[Approved March 18, 1842.]

Chapter 35.

AN ACT regulating the fees in justice actions.

Be it enacted by the Senate and House of Representatives in Legislature assembled, as follows :

In no justice action which shall be continued at the request of the plaintiff where the defendant does not appear, shall there be allowed or taxed but one travel and one attendance for the plaintiff, unless said defendant shall in writing consent or agree to a continuance of said action. And this law shall take effect from and after its approval by the governor.

Fees in justice actions.

[Approved March 18, 1842.]