

MAINE STATE LEGISLATURE

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THE
REVISED STATUTES

OF THE
STATE OF MAINE,

PASSED OCTOBER 22, 1840;

TO WHICH ARE PREFIXED

THE CONSTITUTIONS

OF THE

United States and of the State of Maine,

AND TO WHICH ARE SUBJOINED THE OTHER

PUBLIC LAWS OF 1840 AND 1841,

WITH AN

APPENDIX.

PRINTED AND PUBLISHED IN COMPLIANCE WITH A RESOLVE OF OCTOBER 22, 1840.

Augusta:

PUBLISHED BY WILLIAM R. SMITH & Co., PRINTERS TO THE STATE.

.....
1841.

SECTION 1. The jurisdiction and sovereignty of the state extend to all places within the boundaries thereof, subject only to such rights of concurrent jurisdiction as have been, or may be, granted over any places, ceded by the state to the United States.

CHAP. 2.
Sovereignty of the state.

SECT. 2. All places, which have been ceded to the United States, for light houses, forts, arsenals, and other public purposes, and over which concurrent jurisdiction has been granted to the United States, shall continue to be subject to such concurrent jurisdiction, according to the terms of cession, and to the rights of this state, so far as that all civil and military processes, issuing under its authority, may be executed in any part of said premises or buildings thereon.

Where jurisdiction concurrent with the United States.
3 Mass. 72.
17 Pick. 298.

OF FUTURE CESSIONS TO THE UNITED STATES, AND OF THE SEAT OF GOVERNMENT.

SECT. 3. Whenever the United States shall require the cession of the jurisdiction of any lands for the erection of forts, magazines, arsenals, dock yards, and other needful buildings, as provided in the constitution of the United States, the governor, with advice and consent of the council, is authorized to make such cession by proper deeds of conveyance, reserving therein and thereby to the state, its jurisdiction, so far, as to have a right to execute, within the limits of the tract ceded, all civil and criminal processes lawfully issued under the authority of the state; but the tract shall not exceed ten acres, nor include any public or private burying ground, dwelling house, or meeting house, without consent of the owner, nor any highway.

Future cessions to the United States.
1836, 251, § 1.

SECT. 4. If compensation for such land is not agreed upon, the estate may be taken for the intended purpose, by payment of a fair compensation, to be ascertained and determined in the same manner, and by proceedings similar to those, provided for ascertaining the damages in locating highways, in chapter twenty five.

Compensation for land so taken.

SECT. 5. All lands so ceded shall continue to be subject to such concurrent jurisdiction, as is mentioned in the first section of this chapter.

Effect of such cession.

SECT. 6. The act fixing the place of the permanent seat of government at Augusta, passed on the twenty fourth day of February, eighteen hundred and twenty seven, shall continue in force until altered.

Seat of government.
1827, 366.

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OF PUBLIC LANDS.

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5. Restrictions as to his private business.
6. To account for avails of sales and settlements with trespassers.

- SECT. 7. Securities to be made payable to the state.
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Present land agent continued.
Future appointments.
1828, 393, § 1.

Agent's salary and bond.
1836, 244, § 1.
1835, 192, § 16.

His duty.
1828, 393, § 1.

SECTION. 1. The present land agent shall continue in office, according to the tenor of his appointment.

SECT. 2. When there shall be a vacancy in the office, it shall be the duty of the governor, with advice of the council, to appoint another land agent, who shall hold his office during their pleasure, subject however to the limitation of law, respecting the tenure of civil offices.

SECT. 3. He shall receive an annual salary of one thousand dollars from the state in full for all his services, and shall give bond to the treasurer of the state, in the sum of fifty thousand dollars, with sufficient sureties, to the satisfaction of the governor and council, for the faithful performance of the duties of his office.

SECT. 4. It shall be his duty to superintend and manage the

sale and settlement of the public lands, and he shall be governed, in making contracts, giving deeds, and in all his other official acts, by the provisions of law.

SECT. 5. No person shall be appointed or continued an agent, for the purposes above mentioned, who is, or shall be, in any manner, directly or indirectly, concerned in the lumber business on state lands, or in the purchase of public lands, or any of the lumber or grass growing or cut thereon.

Restrictions, as to his private business. 1828, 393, § 3.

SECT. 6. The land agent shall receive all moneys and securities accruing to the state, from the sale of lands or grass, or in payment of timber or grass cut by trespassers, and pay over to the treasurer of the state all moneys so received, and found due from him on settlement.

To account for avails of sales and settlements with trespassers. 1828, 393, § 1.

SECT. 7. All securities, given for the sums before mentioned, shall be made payable to the treasurer of the state.

Securities to be made payable to the state. 1828, 393, § 1.

SECT. 8. He may, under the direction of the governor and council, sell at auction, or private sale, any timber or grass growing on the public lands, and take suitable measures for preserving all timber and grass, and prosecute all trespassers on such land, and seize and sell all lumber or grass, so cut by them, giving reasonable and public notice of such sale.

Preservation of timber and grass. 1828, 393, § 1. Prosecution of trespassers.

SECT. 9. When licenses are given for more than one year, then there shall be paid, on or before the first day of September annually, one half, or one third part of the whole sum, for timber and grass authorized to be cut under the license, according to the times therein mentioned. And no license shall be given for a term exceeding three years.

Licenses to cut timber or grass. 1831, 510, § 6.

SECT. 10. He shall personally attend to the duties of his office, as far as practicable, and employ as many assistants, duly sworn, as may be necessary; for whose conduct he shall be responsible.

Agent to attend to his duties personally, unless assistants are necessary. 1828, 393, § 2.

SECT. 11. In every township suitable for settlement, whether timber land or not, there shall be reserved one thousand acres of land, to average, in quality and situation, with the other land in the township, for the exclusive benefit of such town, as the legislature may hereafter direct.

In townships for settlement, 1000 acres to be reserved for the use of the town, 1828, 393, § 4. 1830, 480, § 2.

SECT. 12. When the land agent shall ascertain that any person deriving title under grant from the state, shall have in possession, or claim a right to, a greater quantity of land than was granted to him, the agent shall demand of him a release to the state of the surplus quantity, or the fair value thereof in money, or security therefor.

Agent to restrict such persons, as hold or claim more land than their grant includes. 1830, 480, § 1.

SECT. 13. If a disagreement, as to the amount of such surplus, or its value, shall exist, the agent may settle the same by reference, or in any other manner agreed upon; but if neither mode, above mentioned, shall be adopted by such claimant, the agent shall report all the facts of the case to the governor, and he, with advice of the council, may direct an inquest of office, or other process in law, that the attorney general shall determine proper, to be instituted, to obtain possession of such surplus.

Proceedings, in case of disagreement as to surplus, or its value. 1830, 480, § 1.

SECT. 14. When a township, or a part of one, shall be sold, subject to the reservation mentioned in the eleventh section; or where, by the terms of sale, such whole or part of a township is to be surveyed and lotted for settling, within a time specified, the owner thereof shall, within three months after such survey and allotment,

Mode of designating the lands reserved, as provided in the eleventh section. 1830, 480, § 2.

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give notice thereof to the land agent, and shall furnish him with a plan of said survey and allotment, and the land agent, with such person as the owner shall appoint, shall select and designate the lands reserved for public uses; if such owner shall neglect to appoint an agent for the purpose, the land agent shall select and designate the same, and cause a description of the designated lots to be recorded in the registry of deeds, in the county where such lands are situated, at the expense of the state. If the land agent and the person appointed by the owner cannot agree in the selection, they shall represent the facts to the district court for the county, where such lands lie; and said court shall appoint a committee to perform said service; and said committee shall make return of their doings to said court; and, when accepted by said court, the land agent shall cause the same to be recorded as aforesaid.

Settling lands to be surveyed and lotted before sale.
1835, 192, § 5.

SECT. 15. No township or tract of land belonging to the state, not already surveyed for settling, shall be sold by the land agent, until all the land in such township or tract shall have been surveyed and lotted; the land suitable for farming, into lots not exceeding one hundred and seventy acres each; and the remaining land therein, into lots not exceeding seven hundred acres each.

Agents' assistants to be sworn and not concerned in the purchase of state lands.
1835, 192, § 3.

SECT. 16. All persons employed by the land agent, either as assistants in the land office, or in surveying or exploring lands, shall be sworn to the faithful discharge of their duties, and no person, employed as aforesaid, shall be concerned, directly or indirectly, in the purchase of any lands belonging to the state.

Surveys to be made under the direction of the governor and council and land agent.
1835, 192, § 4.

SECT. 17. The governor and council, and land agent for the time being, shall constitute a board, under whose directions all surveys shall be made.

Land agent to make accurate maps and descriptions and deposit them in the land office.
1835, 192, § 5.

SECT. 18. The land agent, where lands have been lotted, as provided in section fifteen, shall make, or cause to be made, an accurate map or plan of the lands, as surveyed, on which he shall describe and define, as nearly as may be, the lakes, ponds, rivers, streams, falls or mill sites, and the road or roads, which, in his opinion, may be necessary; and deposit the same, together with the field notes, in the land office, in three months after completion of the same; and said field notes shall contain a description of the growth, soil, and general character of each lot.

Plans, field books, &c. to be kept, both at Augusta and Bangor.
1835, 192, § 5.

SECT. 19. Correct plans and field notes of all surveys, and an estimate of the distance of each lot of timber land from any stream, in which timber can be floated to market, or copies of the same, shall be kept in the land offices at Augusta and Bangor.

Agent to exhibit the same and give information at his office.
1835, 192, § 5.

SECT. 20. Such originals or copies shall be open for inspection and copying at all times, when the land agent or his assistant shall be in either of said offices; and they shall be exhibited at the places where, and during the time when, any of said lands are offered for sale; and the land agent shall aid in furnishing information to those, who are in search of it in his office.

When the agent may lay out or make roads.
1835, 192, § 8.

SECT. 21. In any township or tract of land, where the land agent shall be of opinion, that there is a sufficient quantity of settling land to make it for the interest of the state to have a road laid out thereon, he may cause such road to be laid through the whole, or part thereof, as may best promote the settlement of the township

or tract, and may expend, in making such road, whatever the lots on the road may sell for, over and above the price, which may be set on lots not on the road, but of the same quality; and such road shall be located before any of the land shall be offered for sale.

SECT. 22. The land agent, under the direction of the governor and council, is authorized to sell public lands, and give deeds in behalf of the state, of all lands, which he may sell pursuant to law.

Power of land agent to sell public lands.

SECT. 23. The land agent shall advertise the settling land in market, once in each year, for two months, in one paper in Boston, one in Concord in New Hampshire, and in one paper, if such there be, in each county in this state, describing the quality and situation of the land, and the terms of sale.

Mode of advertising.
1835, 192, § 12.

SECT. 24. All lands, lotted for settling, shall be sold to those only, who will perform settling duties, as prescribed in this chapter; the price to be fixed by the land agent, not, however, at a less price than fifty cents an acre: which price shall be fixed on each lot before the day of sale; three fourth parts of the price shall be paid within three years from the sale, in labor in making roads in such township, under the direction of the land agent, and the residue of the price to be paid in cash, within four years from the time of sale; provided, that in all townships where the state is not the owner of at least one half of the land, the several payments may be required in cash or labor, at the option of the land agent.

Terms of sale.
1835, 192, § 6.
1838, 354, § 1.

SECT. 25. The land agent is authorized to sell, as settling land, any lots of land not surveyed as such, but more suitable for settling than timber lands, in which case the large lots shall be considered equivalent to four settling lots, and shall be subject to the same settling duties.

Certain lots may be sold for settling, though not surveyed with that object.
Resolves, 1839, 64.

SECT. 26. The purchaser of one lot shall be required to clear, in a proper manner, fifteen acres thereof, ten or more of which shall be well laid down to grass; and to build a house thereon, within four years from the purchase of the lot.

Purchaser to clear fifteen acres and build a house within four years.
1835, 192, § 7.

SECT. 27. Any person, who shall purchase more than one lot, shall be required to clear ten acres, and lay down to grass the same proportion on each lot, and build a house on one of said lots within said term: but there shall not be sold, to any one person, more than four of said lots in any one township or tract.

Duty of the purchaser of more than one lot.
1835, 192, § 7.
Restriction.

SECT. 28. Whenever twenty, or a less number of individuals, shall each select a lot of land, not exceeding one hundred and seventy acres, in any township lotted for settlers, the same having no mill within its limits, and shall give bond satisfactory to the land agent, that they will, within three years from the time of said selection, erect, in a proper and substantial manner, a saw mill and grist mill on such lot, within said township, as shall be designated by the board of internal improvements, they shall be entitled to a deed of such lot, and each individual shall receive a deed from the land agent, of his respective lot, without any further consideration; conditioned, however, for his performance of the settling duties according to law.

Provision for the erection of a saw mill and grist mill.
1838, 354, § 2.

SECT. 29. Not more than five townships, excepting the settling land, shall be sold in any one year.

No more than five townships to be sold in a

year, unless for settling. 1835, 192, § 11.

CHAP. 3.

Public lands in incorporated towns may be sold by the agent.
1835, 192, § 13.
Mode of selling land, other than settling lands.
1835, 192, § 9.

SECT. 30. Land belonging to the state, situate in any town now incorporated, or which may be incorporated, may be sold by the land agent, in the manner provided in the twenty fourth section.

SECT. 31. All land, excepting settling land, shall be first offered for sale at auction, at the price set upon it by the land agent; and, sixty days before any of said land is offered for sale, he shall give notice of the time and place of sale, and of the price and terms, and a description of the land, by advertising in the state paper, in one paper in the city of Boston, and in one paper, if such there be, in each county in the state, and the price fixed upon said land shall be the price he would sell for, provided he were authorized to sell at private sale; he shall have posted up in some conspicuous place the conditions of such sale, one of which shall be, that immediately after a lot of land is struck off to any bidder, he shall give said agent satisfactory evidence that he will comply with his bid; and if any bidder shall neglect so to do, the land shall be immediately again offered at auction, as before.

Adjustment of price, when that first demanded is not obtained.
1835, 192, § 9.

SECT. 32. If the price fixed on by the land agent shall not be offered by any one, he may at any time afterwards sell the same at private sale, but not at a less price than that, at which it was offered for sale; and if any of such land should remain unsold twelve months from the date of said advertisement, he may fix a different price upon the same, and proceed to advertise and sell, as in the first instance.

Terms of payment.
1835, 192, § 10.

SECT. 33. In the sale of all land belonging to the state, excepting to settlers, the land agent shall require of the purchaser one fourth part of the purchase money in cash, and the remainder in cash, or in three equal payments with interest annually, at the option of the purchaser.

Payments to be secured for land sold whether for settling or for other purposes.
1832, 30, § 2.
1835, 192, § 10.

SECT. 34. If the land sold be settling land, the annual payments shall be secured by good and sufficient surety or sureties, or by retaining a lien thereon, by the terms of the land agent's deed; and if the land be of any other description, then the annual payments shall be secured by retaining a lien thereon, and by notes, with two or more sureties, to the satisfaction of the land agent; and the liens above mentioned being so retained by the terms of the agent's deed, shall be equivalent to a mortgage of the same land to the state.

Land agent to execute deeds of lands granted by the legislature.
1828, 393, § 5.

SECT. 35. The land agent is hereby authorized to execute deeds in behalf of the state, conveying any lands, which have been, or may be, granted by the legislature, so soon as the grantees have complied with the conditions of their respective grants, and collect all sums now due, or which may become due, from any of the sources mentioned in this chapter.

He or his assistants may serve precepts on trespassers.
Resolves, 1829, 32.

SECT. 36. The land agent, or his assistants by him authorized in writing, may serve any precepts on trespassers upon the public lands of this state, or of the commonwealth of Massachusetts, or both, wherein this state and said commonwealth, or either of them, may be parties.

Agent to carry into effect the resolve of March 9, 1832, 119.

SECT. 37. The land agent is empowered and required to carry into effect the provisions of a 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 ninth, eighteen hundred and thirty two. CHAP. 3.

SECT. 38. The land agent may expend in opening, clearing, causewaying, and making the Aroostook road, laid out from the military road to the mouth of Fish river, safe and convenient for travellers, from time to time, such sums of money as may be necessary, not exceeding, however, ten per cent. of the sales of timber and lands, provided, that the commonwealth of Massachusetts shall authorize and empower her land agent to lay out and expend, for the above purpose, equal sums of money, or so much as the land agents of said state and said commonwealth shall agree to expend for the purpose, not exceeding the above per centage on sales.

Provision for the Aroostook road. 1831, 510, § 4.

SECT. 39. If satisfactory proposals can be obtained, the land agents shall make said road, including bridges and causeways, by contract, and, for that purpose, they shall give public notice, and describe in such notice the proposed sections of the road, and the manner of making and finishing the same in all respects; and request proposals therefor; the contractor giving sufficient security to perform said contract; and if the land agents shall not deem it for the interest of the state to accept any proposals, which may be made, they shall cause the same to be constructed by such persons, as they may employ.

Work thereon to be done by contract, if suitable proposals can be had. 1831, 510, § 4.

SECT. 40. Whenever it shall be necessary, that any part of said road shall pass over lands of proprietors, other than said state and commonwealth, the county commissioners in the county where such lands lie, shall lay out the road over such lands, and take legal measures for making and completing the same, and the whole road, when made and completed, shall be, to all intents and purposes, a county road.

Proceedings if the road must be laid out over private property. 1831, 510, § 4.

SECT. 41. If any person shall, without liberty, enter and trespass upon any lands of this state, or of the commonwealth of Massachusetts, or upon the undivided lands belonging to the state and said commonwealth, and cut down, take and carry away, or cut down for the purpose of carrying away the same, and converting it to his own use, any trees or grass, standing and growing on said lands, such person, and all those furnishing teams, oxen, horses, sleds, chains, or other implements, or the supplies of provisions, or other articles, which shall be used in committing and carrying on the trespasses aforesaid, shall be, and are declared to be, trespassers, and to be jointly and severally liable in damages, and they may be sued in any county in the state.

Of the prosecution of trespassers on lands, of Maine or Massachusetts. 1831, 510, § 7. 1839, 376.

SECT. 42. The measure of such damages shall be the highest price, which such timber, logs, or other lumber, or hay, shall bring at the usual place of sale of such articles; and all such teams, horses, oxen, sleds, chains and other implements, supplies of provision, or other articles, employed or used as aforesaid, shall be forfeited to the use of the said state, or commonwealth, or both, according to the title to land where the trespasses shall be committed.

Rule of estimating damages. Certain articles used, forfeited. 1831, 510, § 7.

SECT. 43. Nothing contained in the two preceding sections shall affect the right of the said state, or commonwealth, or both, of seizing and selling any of such timber, logs or hay, cut as above mentioned.

Timber, logs or hay cut may be seized notwithstanding. 1831, 510, § 7.

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No person concerned in such trespass allowed to purchase the forfeited articles.

1831, 510, § 7.
Lands reserved in townships for public uses to remain under the agents' care.

1831, 510, § 9.
Of the agents' reports, accounts and settlements.

The form and particulars of his report.

1828, 393, § 9.
1835, 192, § 15.

Money from the treasury to be paid on warrant. Agent to keep the notes and return to the treasurer schedules thereof and balance sheets.

1835, 192, § 14.

Of the collection of notes by the agent.

1835, 192, § 14.
1836, 244, § 3.

His report of suits commenced and of costs incurred.

1836, 244, § 2.

SECT. 44. In the sales of the timber, logs and hay, so seized, no person, who was in any way concerned in committing such trespass, or in supplying those, who committed the same, shall be allowed, directly or indirectly, to purchase any part thereof.

SECT. 45. The land agent shall take care of the public lots, which have been, or hereafter shall be, reserved for public uses, in the several townships in the state, until the fee of such land shall vest in the town, or otherwise, by force and effect of the grant thereof, and preserve the same from pillage and trespass.

SECT. 46. The land agent shall report to the governor and council, once in three months, and oftener, if required, a particular account of all his doings in his office, and the names of his agents; and they are hereby authorized to audit and settle his accounts, at the close of each year, prior to the annual session of the legislature, and at such other times as may be designated.

SECT. 47. He shall, in his reports, particularly describe all the lands, which have been surveyed for sale and settlement, and exhibit plans of the same, together with the field notes of the surveyor; and when any land has been sold, he shall describe the same, and report the sum received therefor, the names of the purchasers, and their sureties; the names of the trespassers, the amount of the timber cut, and the place where, whether on settling or timber land, and the sum received per thousand feet, where he shall have settled with trespassers; and the sums he receives, from time to time, on the demands now due, or which may become due: distinguishing the sums paid for principal and interest, and the names of the persons, from whom received, and all other particulars required by the governor and council, and also an abstract of all notes, bonds, obligations and other securities, with the names of the debtors and sureties, together with such collateral security, as may have been taken to insure payment.

SECT. 48. The money to be paid out of the treasury, by virtue of this chapter, shall be paid by a warrant from the governor, as in other cases; and all notes taken by the land agent, on account of the state, shall be safely kept by him, and he shall make out a schedule of said notes, annually, and also quarterly trial balances, and balance sheets of the land office ledger, and shall return the same to the state treasurer, who shall enter the same in a book kept for that purpose.

SECT. 49. It shall be his duty to collect all notes taken, other than for settling lands, as soon as they may become due, and collect interest, at least annually, and pay, at the expiration of every month, into the state treasury, all moneys collected or received by him, on account of sales of public lands, and for timber and grass cut by trespassers.

SECT. 50. He shall make his annual report to the governor and council, and include therein a written statement of the number of suits instituted on notes given for lands sold, and for timber and grass cut by trespassers, or otherwise, and the amount of costs in each of said suits, for the year preceding.