

# MAINE STATE LEGISLATURE

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# DOCUMENTS

PRINTED BY ORDER OF

# THE LEGISLATURE

OF THE

# STATE OF MAINE,

A. D. 1859.



AUGUSTA:

STEVENS & SAYWARD, PRINTERS TO THE STATE.

1859.

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# THIRTY-EIGHTH LEGISLATURE.

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HOUSE.]

[No. 12.

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## REPORT.

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The Joint Standing Committee on State Lands and State Roads, to whom was referred the petition of Isaac F. Spaulding and an other, setting forth that they had purchased of the Commonwealth of Massachusetts, the timber on the east half of township No. 2 Range 5, with the right to enter and take off the same, up to the year A. D. 1860, inclusive, and that in consequence of the depressed state of the lumber market they had only taken off a portion of the timber, and praying that five years further time should be granted them to take off the timber, have had the same under consideration, and ask leave to

### REPORT:

That the arguments urged for this extension of time are, that similar extensions have been granted by former Legislatures; that it will be no injury to the State, as they shall cut all the timber before the time expires if they cannot get the extension, but that the extension will be a convenience to them, as it will enable them to cut to better advantage, and that it will be a benefit to the settlers who will then find employment for themselves and a market for their produce for several years; and that liberality on the part of the State requires this indulgence to those with whom she deals.

Your Committee have ascertained, from an examination of books and papers at the Land Office, that sixteen townships and parts of townships, equal to twelve and one-half townships, and embracing *two hundred and eighty-eight thousand acres*, were permitted, for a term of years, by Massachusetts before her sale to Maine, and which are still unexpired. Six of these townships are permitted at a certain price of stumpage, which is to be paid to Maine as the timber is taken off, but as the price of stumpage fixed in these permits is only one-third or one-half of the real present value of the timber, the State will be a great loser by extending them. Those where the timber was sold for a gross sum seem to have been so sold at a nominal price of not more than one-tenth, on the average, of the actual value.

It is believed by your Committee that these sixteen townships and parts of townships so permitted by Massachusetts, were, either from the quantity of timber on them or from their situation, the most valuable of the Massachusetts lands, and will, after the expiration of these permits, if they are not extended, be worth more for timber than most of the lands which the State now owns. Maine, having purchased these lands of Massachusetts, subject to these permits, succeeds to all the legal and equitable rights of Massachusetts; while those who purchased of the grantees of Massachusetts can have no greater rights, legal or equitable, than those of whom they purchased. It follows, then, that Maine stands in the same legal and equitable relation to the present holders of these permits, where they have changed hands, as if she had herself given them the permits. However trifling may have been the consideration paid for these permits, the persons holding them have a legal right to cut for the time specified; but if that consideration was notoriously far below the actual value of the permits, it seems to your Committee that the State ought to rid herself of an unequal contract the moment that its time expires; and can be under no equitable obligation, even on the most liberal code of honor and fair dealing, to renew or extend it.

It makes no difference whether these contracts are in form permits for so many years, or sales of the timber with the right to enter and take it off, for so many years; as our courts have decided that the latter amounts only to permits for that time.

One reason why these parties purchased the timber of Massachusetts, instead of buying the soil, undoubtedly was to avoid paying taxes to Maine. They had a right to look only to their own interests and to escape taxes in this way; but this circumstance certainly gives them no claim to extraordinary favor.

It is true that the lumber business has been depressed for several years past; but these parties took their chance as to the times. It will be time enough for Maine to consider the equitable claims of any one of these parties when he offers to give up his permit and pay a fair stumpage on what timber he has cut, and take back the consideration that he paid with interest.

Much testimony has been taken by your Committee, showing that these permits retard the settlement of the country, by stripping the lands of the timber which the settlers need for building purposes; and that they are violently opposed by the settlers; and that many men refuse to settle on townships which are owned by these permits. There is a petition before your Committee, from the settlers on a township where one of these permits was extended last year, praying for relief, and asking that the State may give another township of land to the person holding the permit to induce him to give it up.

If these permits are to be extended once, it is difficult to see any reason why they should not be extended twice or more.

It is believed that former Legislatures, in extending some of these permits, have not been aware of the amount or the value of the land in this condition, and have not understood the effect of such extensions upon the settlement of the country; and that they have been influenced by the pressure of parties, and by a natural sympathy for men who were known to have lost heavily in the lumber business.

Your Committee, influenced by these considerations, recommend *that the petitioners have leave to withdraw*; and believing that it is of much importance that the permits on these *two hundred and eighty-eight thousand acres of land* shall not be extended, and not doubting that applications for extension will be made to future Legislatures, if there is any hope of success, have deemed it their duty to make this special report, and, in the hope of giving it greater effect, to sign their individual names to it, and to instruct their Chairman, in each House, to call for the yeas and nays upon the

question of its acceptance, in order that the policy of the State, in this matter, may become fixed.

JOHN BERRY, JR., *Chairman for Senate*,  
HENRY E. PRENTISS, *Chairman for House*,  
A. B. SIMPSON,  
J. W. PORTER,  
LEVI H. FOLSOM,  
ISAAC L. MITCHELL,  
EBEN CLOUGH,  
ORCHARD C. GREELY.

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## STATE OF MAINE.

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HOUSE OF REPRESENTATIVES, Feb. 25, 1859.

On motion of Mr. PRENTISS of Bangor, it was laid on the table and 350 copies ordered to be printed for the use of the Legislature.

GEO. W. WILCOX, *Clerk*.