

HOUSE....No. 324.

[EXTRA SESSION.]

Commonwealth of Massachusetts.

HOUSE OF REPRESENTATIVES, December 22, 1859.

The Committee on Finance, to whom was referred the Order to consider the expediency of repealing or amending chapter 52 of the Resolves of the year 1859, or so much thereof as fixes the rate of security to be given for permits to cut timber on the public lands in Maine, the property of this Commonwealth, and also the Report of the Committee of 1859 to examine the same, ask leave to make the following

REPORT:

The subject under consideration demanded more time to investigate than the Committee in this late hour in the session, have been able to devote to it. They have, however, given it as much examination as their limited time would allow. Numerous meetings have been held, and many witnesses have been summoned to testify as to their knowledge of the matters submitted to the inquiry of the Committee.

In the course of the examination they have called all persons within their reach from whom information could be elicited in regard to the value of the lands in question, and of the timber

standing thereon. These witnesses were summoned in the expectation,—assuredly in the hope,—that the Committee might be enabled to inform the House of the matters submitted to them.

It appears that the State of Massachusetts was the owner of large tracts of timber lands within the limits of the State of Maine, which lands have been from time to time, disposed of.

It appears that from 1785, the sales of land in Maine owned by Massachusetts separately, and in common with the State of Maine, including grants for educational purposes, up to the year 1857, amounted to 7,917,731 acres, and that there then remained, as the property of this Commonwealth, 1,644,047 acres, making in the whole 9,561,788 acres.

In the year 1852, this State advertised for proposals for the purchase of her interest, (subject to the approval of the governor and council,) in said lands so remaining undisposed of, by advertisements through the public press; and in answer thereto, five several offers were made for all, or a portion of the land, in addition to one from the State of Maine by its governor, conditioned upon the ratification of the same by the legislature of that State.

Herewith is a synopsis of the different bids:—

1. State of Maine, \$400,000 in cash or scrip of the State of Maine, payable in twenty years, with interest at five per cent. per annum, payable semi-annually.

2. D. W. Bradley and thirty-four others, \$506,000, with interest annually.

3. Theophilus Cushing, \$406,000. Mr. Cushing also offered to take any two of the six sections into which the land was divided, at the following prices: No. 1, \$62,000; No. 2, \$48,000; No. 3, \$80,000; No. 4, \$101,000; No. 5, \$82,000; No. 6, \$55,000. Total, \$428,000.

4. Jewett & March, \$411,000, on interest from the acceptance of the bid.

5. Samuel F. Hersey, Nos. 1, 3, 4, 6, \$319,000. No. 1, \$81,000; No. 2, \$65,000; No. 3, \$113,000; No. 4, \$60,000. Total, \$319,000.

No. 6, Cyrus S. Clark and W. H. McCrillis, \$606,000.

The commissioners accepted the bid of Messrs. Clark and McCrillis, and presented the same to the governor and council for their approval.

On the 7th of January, 1853, the commissioners were notified that the governor and council had decided not to accept the bid of Clark and McCrillis, of which the said parties were duly informed.

Upon subsequent consideration of the matter, and it appearing that the State of Maine had sold to individuals her share in certain townships, held in common with Massachusetts, it was decided to sell such undivided portions, and Messrs. Clark and McCrillis, claiming that they were entitled to the refusal of said tracts, the timber thereon standing was sold to them for the sum of \$260,000, and allowing them one hundred years to remove the same, of which sum \$52,000 was in cash, and the balance in six annual instalments, of \$34,666.66 each, and notes of such tenor were made accordingly. Subsequently the fee of the land was sold for a nominal consideration.

It appears from the calculations made by the committee appointed by this present legislature, that there remained due upon said notes, with interest, to October 1, 1859, \$123,240 00

It further appears that Clark and McCrillis purchased the right to cut timber on the north half of Township 8, Range 6, on which, at the same date, is due 9,062 40

And it further appears that Clark and McCrillis, and Thomas Howe, purchased land or timber on the land in Township 17, Range 7, for which they gave their notes, dated September 1, 1853, payable in ten years, for \$12,000, without interest, which is valued by the commissioners of 1859, at the present time, (the note not being due,) at 9,180 00

\$141,482 40

The remaining part of the land was subsequently sold to the State of Maine for \$362,500.

In pursuing the investigation necessary to enable the Committee to make a report upon the matters referred to them, they have examined many deeds, contracts, surveys, estimates

and other documents, from the land office,—communicated with the attorney-general as to the rights of Massachusetts under the grants of timber and land to Clark and McCrillis, and the liens and reservations therein contained,—examined the report of the committee of 1859, and summoned such witnesses as this Committee supposed might be enabled to throw any light upon the matter. They have had before them persons owning and operating upon lands of a similar character, and others engaged in the lumber business, as well as those who have acted as agents for the State in the care and explorations of the lands in question, or on committees to examine the same, in addition to the members of the committee of the present legislature. The Committee also heard such other parties as seemed to have any interest in the investigation.

The value of these lands is mainly, if not wholly, in the timber and wood which is upon them, and to the amount and value thereof, the testimony was very conflicting and unsatisfactory—some of the witnesses estimating the value at a high figure, while others considered the same of very small account. The preponderance of testimony was, however, that the timber and lands sold to Clark and McCrillis were valuable. This fact becomes more apparent when we remember that after the purchase by Clark and McCrillis, of certain selected tracts for \$260,000, that the remainder was purchased by the State of Maine for \$362,500, which sums, added together, makes an amount equal to the original bid for the whole, made by Clark and McCrillis, in 1852-3, thereby indicating, very strongly, that the amount agreed to be paid by Clark and McCrillis, for property purchased by them of the State of Massachusetts, was not above its real value.

It was deemed very important that the value of the lumber, &c., should be well considered, as upon this point the question turned whether or not any allowance should be made to Messrs. Clark and McCrillis from their remaining debt for the purchase. Since 1856, no payment has been made. The treasurer holds a bond for the payment of the note due in that year, 1857. The bond was given to enable Clark and McCrillis to cut timber on the lands for the years 1856-7, which bond is still unpaid, but is believed to be good. Of the timber cut in 1857-8, and in 1858-9, there is no return, nor is there any evidence of any

attempt on the part of the State to secure her lien upon the same, although it is believed that it is the duty of the land agent to attend thereto. Permits have been granted, as the Committee understand, to persons to cut timber on these lands during the present winter, and no steps have been taken to secure, for the benefit of the Commonwealth, the stumpage on which, and only on which, it appears that the State must depend, if it ever expects or desires that the notes due for the purchase of the land should be adjusted.

How much the State have lost by allowing parties to cut and carry off timber within the past two years, the Committee have no easily accessible means of information; but this fact is apparent that the lien on timber so cut and carried away has been lost, showing gross neglect somewhere,—a neglect which ought to be remedied soon, if the State desires to look for payment to any other source than the personal security of the promissors on the notes held by it for the purchase of its timber and lands.

The Order under which the Committee of Finance has been pursuing these investigations, directs them to consider the expediency of repealing or amending chapter fifty-two of the Resolves of the year 1859, &c. These Resolves direct the land agent to advertise a list of the tracts of land on which payments are due,—direct how, when, and under what circumstances, said lands, in case of non-payment for the same, shall be forfeited,—authorize a part owner, in case of non-payment of another part owner, to pay the whole amount due, and thereupon receive a deed of the interest in the tract or tracts forfeited; and direct that a committee be appointed to examine into the value of lands held for non-payment, and settle claims of the Commonwealth; and further authorize the land agent, under the direction of the governor and council, to execute and deliver such deeds or instruments as may be required to carry such settlement into effect.

The Committee, so far as they have been able, have given the subject all the consideration in their power, and beg leave to recommend as preliminary to the conclusion of their Report, that the treasurer be instructed to collect the note and bond above referred to. That a commissioner be elected by the next legislature to take charge of the interests of the Commonwealth in the public lands in Maine, with authority to appoint an agent

to reside in the vicinity of the lands in question, whose duty it shall be to oversee the cutting of timber, &c., on the premises, and perform such other services, in relation to the timber and lands, as the commissioners so elected as aforesaid shall direct; and in conclusion, the Committee recommend that the Resolves chapter fifty-two of the year 1859, "To enforce the payment of debts due to the Commonwealth on account of Public Lands in Maine," be repealed, and submit the accompanying Resolve.

For the Committee,

W. S. MORTON.

Commonwealth of Massachusetts.

In the Year One Thousand Eight Hundred and Fifty-Nine.

RESOLVE

Repealing Chapter fifty-two of the Resolves of eighteen hundred fifty-nine.

Resolved, That chapter fifty-two of the Resolves of eighteen hundred fifty-nine, being "Resolve to enforce payment of debts due to the Commonwealth on account of sales of the public lands in Maine," be, and is hereby repealed.

Commonwealth of Massachusetts.

In the Year One Thousand Eight Hundred and Fifty-Nine.

R E S O L V E

In relation to enforcing the Payment of certain Notes given for
Lands in Maine.

Resolved, That the treasurer of the Commonwealth be instructed to collect the bond given by John Demerit and William H. Ireland, and also a note signed by Thomas Howe and John Demerit, both due the Commonwealth on account of public lands in Maine.