



Location (an area distinct from the existing Wentworth's Location near the Maine border). In 1800, a statute incorporated the Town of Adams (now Jackson) to include this land but in 1806, a map surfaced purporting to show that the western boundary of Jackson differed from the western boundary of the land transferred by Buckman, causing some to claim that parts of that land actually lay to the west of Jackson, in the area now called Sargent's purchase. In the course of a subsequent lawsuit, the N.H. Supreme Court reviewed this plan but held it in low regard. This issue, at least, was quickly dispatched never to rise again.

In 1824, the Legislature passed a resolution granting Daniel Pinkham land to build a road extending from Jackson (then Adams) to Randolph (then Durand). Not long after Pinkham began his arduous task, the Legislature authorized the Treasurer to convey 1,000 acres lying near Pinkham's grant and to the north of Rocky Branch to a woman named Dorcas Merrill. With tens of thousands of as yet unbounded, un-surveyed, and often unexplored land still to be granted, the drafters of the Merrill deed nevertheless found it wise to identify the corner of this lot with nothing more than an ash tree. Decades later, this land and that tree would become the focal point of years of litigation.

At this time, Dorcas Merrill's half-sister, Harriet Eastman, was married to a man named George P. Meserve – a figure featuring prominently in the remainder of this history and deserving some attention. A book published in 1906 entitled *Saco Valley Settlements and Families* gives this description:

On April 11, 1798 was born George P. Meserve, who:

having been employed on the rugged soil in boyhood he was deprived of the means of gratifying his inherent thirst for that knowledge obtained from books, such as are accessible today; but after the days expired, and when others were reposing, he was wont to study such works as came within reach by the uncertain, flickering light of pitch-wood. His strongest trend was on military lines, and he became an adept in tactics, and at the early age of twenty-six was commissioned major-general of the state militia.

In 1832 Meserve served as a selectman in Jackson. He, a man named "Tricky," and John Rogers claim that they "ran the line" of the Jackson boundary in May of 1832. In that very same month in 1832, adjacent to the very same Jackson boundary "run" by Meserve and also adjacent to the land of Meserve's half sister-in-law, the State Lands Commissioner James Willey (sometimes "Wiley") granted (for \$300) a large tract of land to Jacob Sargent and others. This "Sargent's Purchase" encompassed 25,000 acres, covered (some said) the State's most iconic mountaintop, and rested on a boundary description rife with ambiguity. The deed describes Sargent' Purchase as follows:

Beginning on the northeast corner of a lot of land given to widow *Dorcas Eastman* of said Bartlett by the Legislature of New Hampshire; thence running due west three and one fourth miles; thence due north so far as that a due east

course, extending to the west line of the town of Jackson or Pinkham's Grant, shall contain 25,000 acres; thence southerly on said westerly line of Jackson to the southwesterly corner thereof; thence south so far as that a due west course shall strike the first mentioned bounds

First, the deed references a lot given to Dorcas Eastman rather than Dorcas Merrill. No record exists for such a transfer and, if one believes George Meserve, only Dorcas Merrill ever obtained this land, the drafters of Sargent's deed having mistakenly named a close family member in place of the actual grantee. As Meserve later testified, Merrill's "mother's name was Dorcas Eastman; never knew any other Dorcas Eastman."<sup>2</sup> Second, the south side of Sargent's purchase in this description runs east to west for "three and one fourth miles," a distance that would have placed its western terminus well into Hart's Location which had already been delineated in the late 1700's and which actually lay in another county.<sup>3</sup> Finally, the description contains no static northern boundary. In a manner now appearing almost reckless but consistent with other grants of the time, the northern boundary is nothing more than a line running from the west to the east until it intersects either the Town of Jackson<sup>4</sup> or Pinkham's Grant. This line continues to slide north until the area within the shape it helps create includes the full 25,000 acres. Nevertheless, for the time being, no one disputed the bounds of Sargent's Purchase.

Later, in 1835, Willey quitclaimed to Samuel Thompson and George Meserve a parcel starting at the northwest corner of Pinkham's Grant (which now appears to be near the corner of Martin's Location if, indeed, Pinkham's grant did originally reach to Randolph), running along the bottom of Low and Burbank's Grant, south along the recently created Chandler's grant, and then back to its beginning. But just like Sargent's Purchase, the deed essentially creates a line running west to east that continues to slide south until the parcel it helps describe contains 12,000 acres. The deed states:

Beginning at the northwest corner of Pinkham's Grant, thence running westerly to the south line of Shelburne Addition and the south line of Low & Burbank's Grant, to the northeast corner of Jeremiah Chandler's Grant; thence due south on the east line of said Chandler's Grant, so far that a due east line extending to the west line of said Pinkham's Grant shall contain 12,000 acres; thence northerly on said west line to the first bound.

In 1839, Thompson and Meserve quitclaimed this parcel to Daniel Eastman, perhaps yet another relative of George Meserve. However, this quitclaim deed purports to transfer only 10,000 acres

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<sup>2</sup> Merserve's wife's maiden name being Eastman.

<sup>3</sup> By comparison, today, the southern edge of Sargent's Purchase is only about a half of a mile long. In all likelihood, Hart's Location, Low and Burbank's Purchase, Cutt's Grant, Crawford's Grant (Purchase) and Bean's Grant all existed at this time.

<sup>4</sup> In 1834, James Willey made a plan of Jackson but there is no available record of him having delineating Jackson's boundaries prior to granting Sargent's Purchase.

from Willey and uses a different but overlapping description.<sup>5</sup> Daniel Eastman transferred this land to men named Whitney and Wetherell in 1840.

In 1841, George Meserve, now the local tax collector, determined that taxes on Sargent's Purchase were in arrears. In 1842, the *N.H. Patriot* and the *Coos County Democrat* printed notice of the pending tax sale of Sargent's Purchase along with other prominent lands in the area. Subsequently, in 1844, the Coos County sheriff sold Sargent's Purchase to Jared Williams. The sheriff at the time was the same George Meserve. The deed making the transfer essentially just described the land as "Sargent's Purchase" minus some specific lots. Williams subsequently quitclaimed Sargent's Purchase to George Herring in 1844 who then, in 1846, conveyed it by quitclaim deed to none other than George Meserve. It is Meserve who quitclaimed it to Coues (sometimes "Coves") and David Pingree in 1846.

In 1848, more tax trouble brewed to the north. Taxes went unpaid on an undivided one-half interest in Thompson and Meserve's Purchase so the new combination sheriff and tax collector, John Bellows, sold at auction this half interest to Joseph Cady. Joseph Cady then sold this interest back to tax collector/sheriff John Bellows for the exact amount Cady paid for it (\$20.71). Bellows then quitclaimed this to the ubiquitous George Meserve. Although apparently now without any legal title, witnesses in 1851 claimed that Sheriff Bellows controlled the "pony road" that ran to the Mount Washington summit (which sources say came down Tuckerman's Ravine) and that no one could pass without his permission.<sup>6</sup>

N.H. Supreme Court opinions record testimony that "Rosebrook and others" built the first Summit House in 1852. The next year, a man named Samuel Spaulding testified that he and others (having for some reason sought the permission of John Bellows) built the tip-top house. Afterwards, Spaulding went into business with Hall and others – owners of the Summit House.<sup>7</sup> Nothing indicates that any of these parties actually owned the land beneath the buildings although some anomalous deeds indicate an attempt to transfer interests in the summit from, for instance, John Bellows to Thompson. These deeds do not appear to be part of a valid title chain. Adding to the mystery, many deeds, including the one from Bellows mentioned above, were burned in a fire at the Coos Registry in 1886 and have been re-transcribed with significant omissions to the extent they exist at all.

In 1853, Coues and Pingree quitclaimed Sargent's Purchase to the Jackson Iron Mfg. Co. of which David Pingree was president. After David Pingree's death, his heirs took over the

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<sup>5</sup> The initial part of the description in the 1839 deed makes no sense as it fails to describe a closed shape.

<sup>6</sup> Sheriff Bellows appeared to be less than fastidious with respect to the finer points of property ownership. In *Cahoon v. Coe*, 57 N.H. 556 (1876), the N.H. Supreme Court upheld a decision requiring him to return land that he had sold at a tax sale to his nephew because he had failed to give the owner proper notice.

<sup>7</sup> In 1854, Spaulding jointly owned the tip-top house with Hall and Noyes.

company. In that same year, the Legislature gave Gen. David O. Macomber a charter to create a road to the summit. Through fits and starts, the road emerged from the mountainside and continues in operation today, touted as “America’s oldest manmade attraction.”<sup>8</sup>

The next year, George Meserve quitclaimed Thompson and Meserve’s Purchase to John Hitchcock who then quitclaimed it to John Bellows. In 1858, Samuel Thompson also quitclaimed his interest to John Bellows so that Bellows now appeared to control all of Thompson and Meserve’s Purchase, if, in fact, the 1848 tax sale was valid. However, Wetherell, Whitney, and Faulkners continued to claim ownership through their original grant from Daniel Eastman and they later quitclaimed that interest to Henry B. Wells. The discrepancies in the competing title chains became irrelevant in 1859 as Bellows too quitclaimed to Wells. Although circuitous, this series of transactions left the Jackson Iron Mfg. Co. and Henry Wells in control of Mount Washington – Wells to the north and the manufacturing company to the south.

In the meantime, a new vision for the mountain started to materialize in 1858, when Sylvester Marsh obtained a charter from the N.H. Legislature to build a railway. Completed in 1869, what is generally known as the “Cog Railway” still operates today as a “marvel of 19<sup>th</sup> century technology and modern innovation.”<sup>9</sup>

In the 1860’s, the ambiguities in the boundary descriptions of Sargent’s Purchase and Thompson and Meserve’s Purchase took center stage. Wells and the Jackson Iron Mfg. Co. each claimed that the summit of Mount Washington resided within each party’s respective parcel. Part of the dispute focused on the boundaries of the lot granted to Dorcas Merrill. Previous transfers of Sargent’s Purchase relied on the boundaries of the Merrill lot – if the location of the Merrill lot changed, so too would the boundaries of Sargent’s Purchase. Although the transfer to the legislature described an “ash tree” as the boundary, others believed that the parties to the transfer wanted to refer to the boundaries of the land actually occupied by Merrill, not just what the Legislature had granted. In came George Meserve to testify. That boundary, he said, was not defined by an “ash tree” but by a maple of which only he and his cohorts knew the location.<sup>10</sup> Apparently, his testimony did not prove decisive. Between 1862 and 1869, no fewer than four New Hampshire Supreme Court decisions addressed the dispute between Wells and the Jackson Iron Mfg. Co., none of them culminating in resolution.

Around this same time, State Treasurer Peter Sanborn independently created a new title chain by transferring the summit of Mount Washington to Aurin Chase. This action appeared to re-grant land already transferred years before. Eventually, this title chain became vested in the heirs of Pingree and the Road Company.

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<sup>8</sup> <https://mtwashingtonautoroad.com/history>.

<sup>9</sup> <https://thecog3-px.reservationnow.us/about-the-ride/>

<sup>10</sup> Around 1853, Thompson says that he and Willey made a preliminary survey and referred to the Maple tree. Noah Barker, who claimed to have made several surveys (though he may not have actually been a surveyor) called on Willey “[b]y advice of Gen. Meserve.”

In 1872, a partial reconciliation came to the summit when the heirs of Pingree, presumably tired of the legal imbroglio in which they participated on behalf of the Jackson Iron Mfg. Co. and perhaps daunted by the prospect of ever proving ambiguous boundaries, bought Thompson and Meserve's Purchase so that they now owned both parcels. Although owning the two might result in resolution of the respective lot boundaries, other parties still had interests in the mountain; specifically, both the Summit Road Co. and the Mount Washington Railway Co. ("Railway") were pressing their respective rights. Out of this situation comes the settlement of 1894.<sup>11</sup>

The 1894 settlement actually involved four parties – the heirs of Pingree, the Railway, the Road Company, and the Concord & Montreal Railroad. The agreement served as a deed for all practical purposes but its atypical structure created its own set of ambiguities. For instance, rather than including a transfer clause, the agreement contains a series of separate paragraphs each naming different parties, including different interests, and using different transfer mechanisms (some warranty, some quitclaim, some just by way of agreement). As a result of this agreement, the Railway owned a large circular area of the summit in fee as well as the railway corridor to the base; the Road Company held easements to use the road, turning grounds, and what were then stables; and the heirs of Pingree continued with the residual. Later, in 1910, the Railway obtained additional land at the summit consisting of a 10-acre quasi-rectangular tract attached to the summit circle from the successors of the Pingree heirs.

In 1915, the federal government took essentially all land on the mountain other than these areas through condemnation. Three years later, in 1918, the White Mountain National Forest was born.

Finances now began to play a role in ownership. In 1939, the Railway, seemingly strapped for cash, entered into an indenture with the Mount Washington Club, Inc., which would later change its name to the Mount Washington Summit House ("MWSH"), for the summit circle and rectangle. The MWSH in 1962 obtained the remainder of the Railway's land through a deed. Within days, the MWSH transferred all of this land, the rail corridor, the summit, and the base, to Dartmouth College.

In 1962, Dartmouth College owned almost every interest in the mountain not already taken by the federal government – but not for long. The College quickly began transferring interests to various parties. It gave the railway corridor down to the base in fee to a company called Marshfield, Inc. along with an easement over the summit circle. Later, it gave Marshfield Inc. a 200-foot long rectangular lot near what is now the Sherman Adams building. To the State

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<sup>11</sup> George P. Meserve died ten years prior to this settlement on September 19, 1884 at the age of 86. His obituary read: "Married to Harriet Eastman. Grandson of Captain Jonathan Meserve of the British Army who revolted and fought in the Revolutionary War. Son of Colonel Jonathan Meserve one of the first settlers of Jackson." Jackson Historical Society, [http://www.jacksonhistory.org/Collection/reports/web\\_obituariesPage11.html](http://www.jacksonhistory.org/Collection/reports/web_obituariesPage11.html).

it gave the summit circle and the large quasi-rectangular tract, reserving from the summit circle an 8-acre parcel that it could use for any purpose including broadcasting. Marshfield Inc. eventually merged with the Railway which survived the merger and now holds all of the rail-related interests. Many years later, Dartmouth College transferred the 8-acre “out parcel” to the State, solidifying the State as the fee owner of almost all of the Mount Washington Summit.

Today, N.H. State Parks operates the summit of Mount Washington in partnership with the fee and easement owners and others with interests on the mountain. Since 1969, the Mount Washington Commission has helped guide management with input from the relevant stakeholders. The Mount Washington Commission is comprised of:

- N.H. State Parks;
- The Mount Washington Auto Road (Road Company);
- The Cog Railway (Mount Washington Railway Company);
- The Appalachian Mountain Club;
- The U.S. Forest Service;
- Townsquare Media;
- The Mount Washington Observatory;
- A New Hampshire Senate member;
- A New Hampshire House of Representatives member;
- And public members appointed by the Governor and Executive Council.