

MAINE STATE LEGISLATURE

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Legislative Record

OF THE

Seventy-Fourth Legislature

OF THE

STATE OF MAINE

1909

tation for \$100 on account of State road constructed in the year 1907.

Resolve, in favor of the town of Frenchville for \$141.75 to be paid to the town of Frenchville on account of State road constructed in 1908.

An Act authorizing and empowering Albert C. Page and Roger G. Leonard to erect and maintain a boom and piers in the Passadumkeag river. (On motion by Mr. Milliken of Aroostook this bill was tabled pending its passage to be enacted.)

An Act to amend Section 3 of Chapter 29 of the Revised Statutes as amended by Chapter 40 of the Public Laws of 1905, relating to the sale of milk and cream. (On motion by Mr. Macomber of Kennebec this bill was tabled pending its passage to be enacted.)

Resolve in favor of the town of Old Orchard for receipt of State treasurer for State tax to be given said town on a valuation of \$100,000. (On motion by Mr. Macomber of Kennebec this resolve was tabled pending its final passage.

Orders of the Day.

On motion by Mr. Theriault of Aroostook Senate Document No. 445, "An Act to divide the town of York, and establish the town of Yorktown," was taken from the table.

The same senator further moved that the minority report be accepted.

Mr. KELLOGG of Penobscot: Mr. President, being on the committee on towns and having sat for about seven hours listening to the evidence which was given in this case, I would like to review it just a little.

I would say in the first place that the committee on towns have had several propositions like this before them this year. The first was to divide the town of Kennebunk and to make the town of Arundel. We heard the evidence through for five or six hours, and finally voted that it ought not to pass. They did have some grounds for a division.

Next came the act to set off from the town of Cushing, in Knox county, Fred Thornton, with his polls and estate, and annex the same to the town of Thomaston. That was heard through, and while the committee thought there were not any grounds for division, they voted four for and four against. The chairman cast

the deciding vote, deciding that he should be set apart.

Third was the act to set off certain lands in the town of Denmark and annex same to the town of Brownville. This case was on the same lines and the committee reported "ought not to pass." The chairman took no action.

The fourth was an act to set off certain lands in the town of Berwick and annex same to the town of South Berwick. Let me say on this proposition that this hearing lasted somewhere about five hours, and Senators Gowell and Smith were both there and opposed this division. It looked at one time as though there would be some ground for that division; but when it came to a final hearing the committee decided that there was no ground for a division.

The next case was this proposition to divide the town of York and establish the town of Yorktown.

Now at the hearing the petitioners had for witnesses J. C. Stewart, E. S. Marshall, J. W. Simpson and one or two others resident property owners. They also had two non-resident property owners. The claim of the resident property owners why there should be a division was that the seashore section could not get sufficient appropriations for improvements. One of the non-residents favored the division because he could not have trees set out along the road and sidewalks built to the golf links; the other could not tell why he wanted the town divided. I presume he had not been told what to say by the petitioners. However, he thought the town should be divided.

Now, the opponents to the division had for witnesses the chairman of the county commissioners, the three selectmen of the town, two of whom with the county commissioner live below the proposed dividing line. They also had eight or 10 other witnesses, all of whom were business men and who are interested in the welfare of the town. All but two of these live south of the line by which it is proposed to divide the town of York. There was a remonstrance against the proposed division signed by 382 persons, two-thirds of which live south of the line.

Now, what are some of the facts brought out at the hearing, which lasted from 4 P. M. to 10.30 P. M.?

First, the town has a valuation of \$2,500,000. By the proposed division the new town would take \$2,130,000, leaving \$370,000 in the old part. There would be about 180 voters left in the old town and right around 600 in the new. High school, two graded schools, town farm, town hall, postoffice, all the hydrant service, which the town has paid for. The town has appropriated \$8000 annually for ways and bridges, 20 per cent. of which has been paid to the two village corporations. They have appropriated \$5000 for sewers, \$200 for sewer survey, \$225 for sidewalks survey, water for all street sprinkling paid for by the town. For the past two years the town has paid \$500 for teams to sprinkle the streets in the lower part of the town. The town records show that over \$100,000 has been expended in the south part of this town in the last 10 years, and where there are three voters in this section to one in the upper part of the town they ought to be able to have anything they are willing to be taxed for.

Let me say right here that this street sprinkling goes into the little corporation. A part of the town paid \$500 for teams to sprinkle the streets in this lower part of the town. The town records show that over a hundred thousand dollars has been expended in the south part of this town in the last 10 years, while there are three voters in this section of the town, to one in the upper part, who have any improvements, they are to be taxed.

Let me say that I have been informed this morning, and I think quite well informed, that this measure is being taken on party lines. They have undertaken to bring politics into it, the same as they would in the matter of the removal of the county seat of York county some time ago.

The new part of this bill which has been printed here, does not materially change the situation. All of these petitioners, the selectmen, and all these town buildings and everything comes below this new proposed line; and as I said in the start, it does not look to me to be good policy for the senators of York county to be here advocating a division of this town, when they were on this very floor opposed to the division of the town of South Berwick, or to the taking of a part of the town

of Berwick and giving it to the town of South Berwick.

Now let me say that, at the close of this hearing, which lasted five or six hours, it was proposed to take a straw ballot. Such a ballot was taken and the vote was seven opposed, and one, the chairman of the committee, voted that the division should be made. At that time, after this straw ballot was taken, it was proposed that we make that vote final, but out of courtesy to Mr. Wing, who was on that committee, and he said that he had promised some of the proponents of this division that, if the vote was against the division, he would have it laid on the table for a few days—and I presume that why they wanted that done was so they could work other laws through—I presume in the last two or three weeks there have been two or three of these gentlemen on the floor of this Senate from sunrise to dark—the hearing was postponed until Tuesday, and at the time the final vote was taken, it was just the same as it was on the straw ballot, seven voting that it ought not to pass and one voting that it ought to pass.

I am not personally interested in this matter; and I presume people will say that I ought not to be on the floor of the Senate opposing a matter which the senators from York county are after; but I think, if any of you will take this matter home, you would not like to have three or four men step in and undertake to divide your town. When the petitioners came in, all they could bring was 49 petitioners and a few letters from some non-resident owners, out of the State. And let me say that most of those letters which they put into the case, were letters in answer to a circular letter of the proponents which was sent out to the non-resident owners. Some of those letters say that they do not understand much about this, but if you people think a division is necessary, we presume it is and will stand by it.

I hope, gentlemen of the Senate, that you will sustain the report of the majority of this committee.

Mr. HAMILTON of York: Mr. President: This is the first I have heard that this was a political meas-

ure. Certainly I am well acquainted with the town and know that there are Democrats and Republicans, both for and against this division; and I have never heard that there is any politics in it whatever. I do not believe there is any politics in it. If there is, the senator who has just spoken has brought the politics in. I certainly have friends who are strong and active Republicans, who are opposed to this division; and equally, as well, I have friends in the Republican party that are in favor. Neither of them came to me or have spoken to me of political issues; and I repeat, if there is any politics in it, he has brought them in, because none have come in in York county, in reference to the division of this town.

The senator has talked about the hearings before the different committees, and the different times, and the hearings that he has given to the different towns, and the results of those hearings. I suppose that each town that has come before this committee for division, has come upon facts which they have represented to the committee—each different—each had its virtues and its desires made necessary; and they have come before the committee to represent those towns in that manner; but that has nothing to do with this town whatever.

I was opposed to the first bill which they heard. I was opposed to the division line which was first introduced here in the Senate and referred to their committee. Since then an amendment, as you will see by looking at your record, has been made which wonderfully changes it; and I will call each of the senators' attention to the new draft, put in as an amendment, which changes the line and also changes the name of the new town. It makes a vast sight of difference compared with the plan first drawn. In the old bill, the line was through the center of the town, leaving the whole of the rural district in one town and all of the beach district, or the village part, in the other town.

By the new draft the line goes a part of the way across the town but not in the direction which the old line made—not in the same place, and fol-

lows the river to Cape Nedick and then to the sea and along the shore to Kittery, and then by Kittery to its place of beginning, and contains a vastly different territory.

Let us see how this town stands, as it is now before you under the new draft. The town of York has a valuation of \$2,393,338. As it stands now, the resident real estate is \$1,074,408 and the non-resident is \$1,031,435. So you see that in this new town, which is called for by the bill which is now before you, that the non-resident valuation is about equal to the resident valuation. Under this division, the new town is a seashore town. Their interests are different from the interests of the rural districts, vastly different. As you all understand, they want a great deal done and they are willing to pay for what they want done.

I wish to go a little further. There are in this town two village corporations and they both come within the town that is described in this new plan. There is the corporation at York Harbor Village, \$748,505. The resident is \$359,880. That is the new village corporation which is in this new town. The non-resident is \$388,625—the non-resident is larger than the resident population; and in the York Beach Village, another village corporation, within this same boundary, the resident valuation is \$136,425, and the non-resident valuation is \$225,343.

The total valuation of the town, as I said before, is \$2,393,388 and the village corporation is \$1,110,273, and the estimated value of all other property within those villages is only \$200,000.

Now mark. The town rate is 19.50. The Harbor Village corporation is 2.30, making in their rate of taxation 21.80. The beach tax on the corporation is 3.75, and that makes it a little over 22 cents on the hundred, taxation.

You see by this that these village corporations which he has talked about—I won't say that he has made a mistake in saying that they have paid for the sprinkling—the village corporation has paid the whole expense.

You see the non-residents own in this town that is now asked by this bill—this new town—that they own as

much, if not more than the residents—more than the residents, considerable; and that they pay a great deal more tax in those corporations, in proportion, than they do in the rural part of the town.

I said, in the beginning, that we were all opposed to the division of the town, as it was at the hearing here. We were opposed to it because we thought it was not fair; but when this proposition comes in, we regard it as eminently fair and for the interests of both sides. They cannot get along well together. In the division of the new town, the new town takes all the bridges. They have a bridge over there that cost them \$50,000 and that bridge is not paid for. That bridge has caused a great deal of trouble and has been in law for two or three years and is in law now, and the United States has taken a hand in it; and it is open now for the passage of vessels through the draw, but it is not open to the travel of the town. Now this new town proposes to take that bridge and pay for it. What else does it propose? They have a nice High school, and it is true that the High school comes within the boundaries of the new town; but they propose in this new bill to give them the same use of the High school and its funds that the new town has. They propose in this new bill that the school boards of the two towns shall control and manage the High school as it is called, the same as it has been; and they propose further that all of the indebtedness of the town shall be divided according to the amount of the valuation made this year; and that in the division of all of this, that the county commissioners, who as he stated live there, shall live up to it—to take care of its own poor and the taxes are to be collected and they are to be divided after payment of what they appropriate. It is an eminently fair proposition. I have been acquainted with this town and its surroundings and location all the days of my life and I know the trouble they have had there. Their interests are not identical. These people who come there for summer resort are worth their millions and they want many improvements. They do

not care how many improvements are made or how much it costs, but they want the money which they give to be laid out in improvements there, while those in the rural districts are opposed to this, so that their interests have not been identical. Their interests have been diverse and they have been always in trouble; and now it has come to this, that they ask for a division which I believe is eminently fair and should be granted.

They live in a part of the town that is not developed, as a part which they ask to be set off. They do not take off of the town, they take off the bridges—they take about all the roads—all the main travelled roads; and they ask for nothing but what is fair.

I have letters here but will not take your time to read them. Many of the homes they build there are elegant, others not so much so. Nature has provided them with the finest location in the State and there is nothing to hinder them, but they cannot and will not come there and will not build, unless they can have some assurance and some certainty that their money is to be expended to beautify the town and to add to its valuation. It is now at a standstill for just that reason. There has been no development in the southern part of the town for two or three years. These letters which I have indicate that these men will not come there or put their money in there unless they can be assured that they can have the improvements which their money would bring. They do not care how much it costs.

I know we had a great deal of trouble in setting off Old Orchard, for a long while, but finally Old Orchard was set off and it was a great thing for the city of Saco and for the town of Old Orchard. As soon as it was set off, Old Orchard began to boom and built up millions of dollars' worth of property there, which I am sorry to say was burned down a year ago last summer.

Now if you divide this town as it is indicated in this new draft, those people who live next to the seashore in those summer residences will certainly boom that town and you will find it one of the most elegant places to

live in in the State. We welcome them there, to invest their money. We want it and we need it; and we need to increase the valuation of the town and that is why I am interested and why every York county senator is interested that they should have it where they can go ahead and not be handicapped.

I believe, too, that it is for the interest of the rural part of the town. They enjoy all the conveniences of the town and they are to have the use of the school with the town, and are to have all its privileges. They are to divide the town's indebtedness in proportion to the valuation, and, of course, the larger part will come in the new town, as now called for.

In the interests of progress, I say that this is a fair bill and one that ought to pass. I believe it is for the interests of the rural part of the town because they have all the advantages of a market. It is not a line—it is an imaginary line—not a line they cannot cross, and every farmer knows that he is more prosperous and that his farm is worth more in a place where there are consumers and where he will have a market.

I will not detain you longer in this matter. I wish you would examine the plans and read the letters and petitions that I have here; and you will say with me that this is a fair act. It will be an absolute benefit to the rural part of the town and will give them one of the best markets in the world.

Mr. KELLOGG of Penobscot: Mr. President, We have listened to the very able argument of the senator from York and he is on a committee here which has had several hearings before it this winter—the committee on towns—and they have tried to decide cases according to the evidence, and I presume his committee has done the same. We have heard this case and we voted seven to one that the division ought not to be. If this is a good fair proposition, why not have another hearing on it, and give the people of this town a chance to come up here and say whether they want this division on this new-proposed line. I do not believe the senator from York, or any other senator, wants his town divided on the say-so of two or three

men, and without having a chance to have a hearing on it. I would advocate that, if this division is wanted, we have another hearing.

What senator is there here who wants to go into another town and pay his taxes towards a High school maintenance? Do not we want our High schools in our own town? Is that a fair proposition? The senator says that these people are willing to pay all the tax they can and that they want to pay the tax, and then in the very next word he says that this village corporation taxes them one tax and the town another. What consistency is there in that? He speaks about the bridge. Why isn't the bridge paid for? Here are gentlemen sitting right along here who have paid money to the town treasurer of York, and there have been hearings before the bridge committee and there is litigation down there, five or six cases on this bridge matter. Why not let this town of York be as it is until this bridge matter is settled. What do we know as to what they are doing to get into when you divide this town, or how these litigations are going to be settled. Senators, I hope you will stand by the majority report of this committee.

Mr. HAMILTON: Mr. President, In reference to the bridge matter, I want to say, as I stated, there are many lawsuits upon that bridge and it is costing somebody a good deal of money and the towns will have to pay it in the end, in my judgment. The new town proposes to pay the \$50,000 and they do not ask them to pay a cent towards it.

Now about the schoolhouse. The schoolhouse sits very near the line of those two towns. The division of this town did not move that schoolhouse. It still remains there and they have their rights, by this bill, to that schoolhouse, the same as the new town has. The new town will pay the larger part of the taxes for that schoolhouse and for its support. So that is eminently fair and there is nothing that they can complain about. There is not a thing in this new bill that they can complain about, because they have everything they want and everything they ask for. We leave them a large part

of our seashore that is undeveloped, some of the most beautiful places there are in the State of Maine, where the electric road runs right through as it does through the part which is to be set off.

Now understand me, these two corporations were organized there for self-defence and these two organizations pay out their money and in addition they have to pay out 19 per cent. for the general tax; and that money they think should be used down where the village corporation is. The village corporation has done all the sprinkling and made all the improvements and the town has made none. They have made appropriations and they have gone somewhere else; and that is the trouble.

I repeat again that these men that come there and bring their money to build their homes, care nothing about how much tax they pay if they can have their homes beautified and made pleasant.

Mr. GOWELL of York: Mr. President: I do not propose to discuss the merits of this question at this time, but I wish to deny one statement made by Senator Kellogg. I believe he said that the senators from York county were down here working on this measure; and I wish to say, as far as I am personally concerned, that I have not worked either for or against the measure. It is true I was opposed to the division of Berwick, because of the conditions that existed in that town; but I will say that I have not tried to influence any senator in regard to this matter. I have simply answered questions, if any were asked of me, about the case, as I understood the facts to be. I think it may be in justice to myself proper to make this statement.

The question being put upon the motion by Mr. Theriault of Aroostook, that the minority report be substituted for the majority report, the yeas and nays were called for and ordered, and the vote being had resulted as follows: Those voting yea were Messrs. Baxter, Boynton, Eaton, Emery, Gowell, Hamilton, Hastings, Irving, Knowlton, Looney, Lowe, Macomber, Milliken, Minott, Mullen, Osgood,

Reynolds, Shaw, Smith, Staples, Theriault Warren, Wheeler, Wyman, (24). Those voting nay were Messrs. Donigan, Hill, Howes, Kellogg, Walker (5).

So the motion prevailed. The same senator thereupon moved that the bill take its several readings and passed to be engrossed.

The bill was read once, and, pending its second reading, on motion by Mr. Hamilton of York, was amended by the adoption of Senate Amendment A.

Thereupon the bill took its second reading and was passed to be engrossed, as amended.

On motion by Mr. Hastings of Oxford, Senate Document No. 365, "An Act in amendment of Section 1 of Chapter 136 of the Revised Statutes relating to sentence in criminal cases," was taken from the table.

The same senator further moved that the bill take its second reading and passed to be engrossed.

Mr. STAPLES of Knox: Mr. President: As I understand this bill, it takes the discretion from the court in this class of criminal cases. I do not rise here to oppose this bill because it gives jail sentences to those who sell intoxicating liquors. That is a matter which I do not care to discuss, because I do not stand here to defend them against jail sentences; but it seems strange to me that we should discriminate in that class of cases and take from the court its discretion in this class of cases where we do not in other cases. I believe it is not in the interest of the enforcement of the prohibitory liquor law to take all the discretion away from the court, because I can conceive that it would be hard work to convict any person before the jury where there were jail sentences and the court had no discretion. There never was any class of cases in the whole calendar of crime but what some person seemingly was a harder criminal than others—that is to say, in cases of larceny and of arson, and in other cases, discretion has always been lodged with the court as to how long, or what the sentence should be. If a person were convicted of being a hardened rum seller, the court would know what to do. If a person has just