

MAINE STATE LEGISLATURE

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DOCUMENTS

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THE LEGISLATURE

OF THE

STATE OF MAINE,

DURING ITS SESSION

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TWENTY-EIGHTH LEGISLATURE.

No. 29.

HOUSE.

STATE OF MAINE.

HOUSE OF REPRESENTATIVES, }
July 21, 1848. }

THE joint standing committee on education, to whom was referred an order directing them to inquire into the expediency of authorizing towns to take land for school house lots, in the same manner that land is taken for highways, have had that subject under consideration, and submit the following report thereon.

Several cases have been brought to the knowledge of the committee, where school districts have been entirely unable to obtain, by purchase, proper sites for the erection of school houses. Whether the difficulties have arisen from the cupidity of land owners in demanding exorbitant prices for lots, or from an unwillingness to have school houses placed too near to other buildings or premises of the land owners, or from the merely speculative policy of some proprietors to hold all their lands for the benefit of a future enhancement of price. There can be no doubt, that great public inconvenience results from such a condition of things. In some cases, the districts have been obliged to place their school buildings upon manifestly improper sites, and in other instances, the erection of school houses has been most injuriously delayed.

The committee entertain no doubt upon the constitutional propriety of such a policy as is contemplated in the order referred to

them. Land taken for a school house, would manifestly be for a public use, and facts render it evident that an "exigency" requiring such a course may not unfrequently exist. The state can as justly exercise its right of eminent domain, for the benefit of schools, as for roads, for canals, for forts and arsenals, for ferries and for booms. Upon a proper exigency being made out, this right should be exercised as readily in reference to the great interest of education, as in any matter of improvement undertaken by industry and capital, for the increase of the material wealth of the community.

But the committee have had much reason to doubt the expediency of passing a general law on this subject. The cases do not appear to be sufficiently numerous to require that course, and there is much reason to apprehend that the operation of a general law would be embarrassed by caprices and indiscretions, quite as prejudicial to the interests of education as the existing difficulties.

The order contemplates that the power to take land for school houses, should be delegated to "towns." Yet inasmuch as all other matters relating to the location and erection of school houses are determined primarily by the districts, it would probably be found necessary, if the power in question should be delegated at all, by a general law, that it should be conferred upon the districts, and not upon the towns.

It is well known how numerous and bitter are the disagreements and conflicts that spring up in school districts, and how frequently they are connected with this very subject of the location of school houses, or the removal of such buildings from one site to another. A great many of the controversies also, which arise in reference to the division of districts, or the alteration of district lines, are connected with previous disagreements, or prospective arrangements upon the subject of school house sites. In many cases, where appeal is made to the towns, or to the selectmen, the appeal serves only to widen and aggravate the difficulties.

Experience admonishes us therefore, to be cautious about adding to these causes of disagreement, the excitement that might arise if

the majority of a district were armed with power, in their own discretion, to take land from one of their inhabitants for the use of the district. Any difficulty arising in course of such a procedure, would mix itself at once with all other causes of strife, and a material disagreement with the land owner, whose property should be taken by the direct action of the district, would be an embarrassment, even when the inhabitants were generally agreed on other questions.

To refer questions of this kind to the towns in town-meetings, would be a reference to a tribunal not well fitted to investigate and decide such matters, and which usually has enough else to attend to.

The committee therefore, in expressing their opinion that it is not expedient to pass a general law on this subject, would add the recommendation, that in cases of serious difficulty in procuring school house lots, the districts should apply in their corporate capacity, directly to the legislature, for the requisite authority. Such an application would undoubtedly be favorably considered by any legislature, especially if it should be in accordance with the general sentiment of the district. It should be accompanied by a distinct exhibit of the wants and means of the district, together with plans of territory and lots, and estimates of value.

With information of this kind, after suitable notice and hearing, the legislature would as readily grant relief in this class of cases, as in the numerous projects of improvement, and public works, which are brought before them—due provision being made, as in all other cases, for compensation to the land owner.

In view of these considerations, the committee report that general legislation on the subject of the order referred to them is inexpedient.

P. BARNES, *Chairman.*

July 22, 1848.

STATE OF MAINE.

HOUSE OF REPRESENTATIVES, July 22, 1848.

ORDERED, That 350 copies of the foregoing Report be printed for the use of the Legislature.

SAMUEL BELCHER, *Clerk.*