

MAINE STATE LEGISLATURE

The following document is provided by the
LAW AND LEGISLATIVE DIGITAL LIBRARY
at the Maine State Law and Legislative Reference Library
<http://legislature.maine.gov/lawlib>



Reproduced from scanned originals with text recognition applied
(searchable text may contain some errors and/or omissions)

DOCUMENTS

PRINTED BY ORDER OF

THE LEGISLATURE

OF THE

STATE OF MAINE,

DURING ITS SESSION

A. D. 1849.



Augusta:

WM. T. JOHNSON;.....PRINTER TO THE STATE.

1850.

TWENTY-NINTH LEGISLATURE.

No. 23.]

[SENATE.

STATE OF MAINE.

IN THE YEAR OF OUR LORD ONE THOUSAND EIGHT HUNDRED AND
FORTY-NINE.

AN ACT to incorporate the town of Yarmouth.

Be it enacted by the Senate and House of Representatives in Legislature assembled, as follows :

SECTION 1. All that part of the town of North Yarmouth lying southerly of the following described line, namely: beginning at the northwestern corner of Levi Blanchard's farm on the line of the town of Cumberland, thence by said Cumberland line to the south line of lot No. 7 in the plan of North Yarmouth, thence following the said south line to the New Gloucester road, thence to a point on the Rangeway be-

9 tween lots No. 21 and No. 38, which shall be in the con-
10 tinuation of the line between the lands of Enoch F.
11 Bearce and Amos Corliss on the Sligo road, thence
12 by said continued line to Royall's river, thence by
13 said river and the northern line of Samuel Baker's
14 land to the north road, thence by a straight course
15 to the point on the Pownal road where the line be-
16 tween the lands of Samuel Parker and Samuel G.
17 Russell crosses said road, thence by said road to the
18 line of the town of Freeport—together with all the
19 persons having a legal settlement thereon, is hereby
20 incorporated into a separate town by the name of
21 Yarmouth, and the inhabitants thereof are hereby in-
22 vested with all the privileges and powers, and sub-
23 jected to all the duties and liabilities incident to the
24 inhabitants of other towns in this state.

SEC. 2. The several inhabitants of the town of
2 Yarmouth shall be holden to pay all taxes which have
3 been legally assessed upon them by the town of North
4 Yarmouth, and the several collectors of taxes for said
5 town of North Yarmouth, are hereby authorized and
6 required to collect and pay all taxes to them already
7 committed, according to their respective warrants.
8 All moneys now in the treasury of said town, and all

9 sums which shall hereafter be received from taxes
10 heretofore assessed, shall be applied to the several
11 purposes for which they were raised.

SEC. 3. The said town of Yarmouth shall be holden
2 to pay its proportion of all debts due from said town
3 of North Yarmouth, and of all state and county taxes,
4 authorized, but not assessed, at the time this act shall
5 take effect, and each of said towns shall be entitled
6 to receive and hold its proportion of all debts due to
7 said town of North Yarmouth at the same time, and
8 the proportions aforesaid shall be determined by the
9 last annual valuation of the said towns.

SEC. 4. The school funds belonging to the town of
2 North Yarmouth shall be divided between the said
3 towns in proportion to the number of scholars be-
4 longing to them respectively, according to the returns
5 made by the agents of the several school districts in
6 the present year. The trustees of the school funds
7 in the town of North Yarmouth, who shall be inhab-
8 itants of the territory hereby created into a new town
9 at the time this act shall take effect, shall be trustees
10 of the school fund of the town of Yarmouth, and
11 after the division of said fund shall cease to be trus-
12 tees of the school fund of North Yarmouth, and they

13 shall have such powers and be subject to such duties
14 in the care of the school funds of Yarmouth, and the
15 application of the same to the use of schools in said
16 town as are prescribed by law in respect to the school
17 funds of North Yarmouth.

SEC. 5. The inhabitants of said towns shall con-
2 tinue to hold and enjoy in common all the rights and
3 privileges hitherto belonging to the inhabitants of
4 North Yarmouth, in any and all public landings,
5 cemeteries, gravel-pits, muscle beds, flats, and fisheries
6 of every kind, within the limits of said towns.

SEC. 6. All persons dwelling on lands now owned
2 by them, which are cut by the boundary line herein
3 described, shall have liberty to belong, with their said
4 lands, and their families, to which of said towns they
5 may elect ; but such election shall be made in writing
6 with a particular description of the boundaries of such
7 lands, and filed in the office of the secretary of state
8 within sixty days after the passing of this act. And
9 until the expiration of that time, the line described
10 in the first section of this act, shall be the boundary
11 line of said towns.

SEC. 7. In any case where the boundary line be-
2 tween said towns shall be by a highway or town way,

3 the whole of said way, contiguous to such part of the
4 line, shall be within the limits of the town of Yar-
5 mouth.

SEC. 8. This act shall take effect on the twentieth
2 day of August next, but the meeting for the choice
3 of officers for said new town may be called at any
4 time before that date, after the passage of this act.
5 And it shall be the duty of the selectmen of the said
6 towns, after said twentieth day of August, to make
7 out lists of voters in their respective towns, and to
8 make such corrections of the same, after that time,
9 as are required by law.

SEC. 9. It shall be the duty of the selectmen of
2 North Yarmouth, to make return to the secretary of
3 state, by the first day of February next, of the pro-
4 portion of the state valuation of the town created by
5 this act, and of the polls therein, and all state and
6 county taxes hereafter imposed shall be apportioned
7 accordingly, until a new valuation shall be made.

SEC. 10. The first parish in North Yarmouth is
2 hereby authorized to take the name of the first parish
3 of Yarmouth, and the trustees of the ministerial fund
4 of said parish may take the name of trustees of the
5 ministerial funds of the first parish in Yarmouth.

6 and all of said trustees shall be inhabitants of said
7 parish.

SEC. 11. Upon application to the county commis-
2 sioners of the county of Cumberland, by the select-
3 men of either of said towns, within three months
4 after the passage of this act, it shall be the duty of
5 said commissioners to appoint a committee of three
6 disinterested persons, to hear and determine upon the
7 several matters hereinafter enumerated. The county
8 commissioners shall require notice of each application
9 to be given to the other party, and the award of said
10 committee shall be in writing, and shall be returned
11 to said commissioners, and shall be by them recorded ;
12 and all the expenses attending such application and
13 award, shall be paid by the said town of Yarmouth,
14 as the same shall be allowed by the county commis-
15 sioners. The said committee shall hear the parties
16 after due notice, within one month after their appoint-
17 ment. They shall estimate and determine the value
18 of the town house now belonging to the town of
19 North Yarmouth, and the value of all the interest
20 which the said town has in the lot of land on which
21 said town house stands, and the town of Yarmouth
22 shall, within sixty days from the date of said award,

23 pay to the town of North Yarmouth its proportion of
24 the same so awarded, according to the valuation
25 hereinbefore provided, and shall take and hold the
26 said town house and lot. Said committee shall also
27 estimate and determine the value of the town farm now
28 belonging to the town of North Yarmouth, together
29 with its appurtenances, and all the stock, materials
30 and other property kept on said farm, and the town
31 of North Yarmouth shall have its election to take and
32 hold the said farm and appurtenances, stock and ma-
33 terials, and pay therefor to the town of Yarmouth its
34 proportion of the sum so determined, according to the
35 valuation aforesaid. If the town of North Yarmouth
36 shall not, within three months from the date of said
37 award, elect to take said farm and appurtenances, stock
38 and materials, the town of Yarmouth shall take and
39 hold the same, and pay to said town of North Yarmouth
40 its proportion of the value so determined, according to
41 the valuation aforesaid; and the payments for said farm,
42 in either case, shall be made within six months from
43 the time allowed for the election aforesaid. Until the
44 expiration of said three months from the date of said
45 award, the town property mentioned in this section,
46 shall be in the care of the selectmen of North Yar-

47 mouth, for the use and benefit of the inhabitants of
48 said towns as heretofore. The said committee shall
49 also determine what sum, if any, ought to be paid by
50 the town of Yarmouth to the town of North Yar-
51 mouth, for the purpose of making a just and final
52 apportionment of the expense of putting in good
53 repair and supporting the bridges north of the bound-
54 ary line described in this act, and the sum so awarded
55 shall be a gross amount, in full discharge of all lia-
56 bility for each expense, and shall be paid within six
57 months from the date of said award.

SEC. 12. All that part of school district No. 10, in
2 North Yarmouth, which lies below the boundary line
3 herein described, shall be and constitute a school dis-
4 trict in Yarmouth, and said district, together with said
5 district No. 10, shall and may hold and use in com-
6 mon the school house and lot now belonging to said
7 district No. 10, until they shall otherwise dispose of
8 the same.

SEC. 13. The said towns shall constitute a district
2 for the choice of one representative to the legislature
3 of this state, until otherwise provided by law.

STATEMENT OF FACTS.

It may be necessary to state some of the facts exhibited to the committee upon which the bill for the division of North Yarmouth was reported.

It appeared, that the town of North Yarmouth is from eight to ten miles long and less than four miles wide, comprising an area of 20,543 acres.

It contained a population of 2,824 in 1840, and is now estimated to contain about 3,750 inhabitants, the number of polls being 752.

The valuation for 1849, which was stated to be an estimate at two-thirds value, is \$1,055,749.

The burdens upon the town are unusually light, the tax of the present year being 4 4-10 mills upon the dollar, and for several years not having greatly exceeded 5 mills upon the dollar, at the reduced valuation.

The pauper bills are light, there being now but thirteen or fourteen paupers in the whole town.

The road expenses are comparatively small, there being sixty-four miles of road according to the estimate of some of the witnesses, or something over seventy according to that of others. There are several bridges across Royal's river which have already been constructed with stone abutments. About \$2,000 are usually raised in labor to be expended in keeping the highways and bridges in repair ; and it was testified to by one of the town officers that \$900 per year in money, had kept the highways and bridges in repair, and would do it now. Mr. Buxton thought it would cost \$2,000 to repair the bridges.

The bill proposes to divide this town so as to leave two compact towns comparatively square.

The principal villages or village (for two have nearly or quite grown into one,) is in the southern portion, or the part proposed to be set off into a new town. The northern part which is to remain, is opposed to the division.

It may be proper then to state the situation in which this part will be left upon a division as proposed.

It will contain an area of 9,000 acres.

It will have 257 polls and an estimated population of more than 1,200.

Its valuation, at a two-thirds value, is \$328,596. The south part \$727,163.

It is represented as a superior agricultural territory, with no considerable mountains, bogs, or waste land. It is well settled, containing good farms, well cultivated, good orchards, good buildings, and a good population.

The roads are good and kept in repair at a moderate expense. It will have five bridges to maintain, all of which have stone abutments, (one of them now needing some repair,) and only two of the bridges are long enough to require more than one length of stringers.

Three, of the thirteen paupers, have their settlement in the territory which is embraced within the limits of this part of the town, and ten, in the part proposed to be incorporated into the new town.

It appeared to the committee that the north part of the town could not be regarded as exposed to any hardships by a division. It would be difficult to find many towns in the State, with so ample resources and so light burdens. A comparison with other towns will make this conclusion obvious to every member of the legislature.

If, then, a benefit can be conferred upon the inhabitants in another portion of the town, without injustice to this;—if by a division, they can better secure the advantages of good municipal government in the more perfect protection of persons and property, it would seem right that they should have it.

In the different parts of this town different interests appear to have grown up. It is alleged that there is a jealousy in regard to the valuation of property in, and out of the villages.

The principal village consists almost exclusively of wooden buildings, so near together as to be greatly exposed to danger from fire. Within a year or two a fire threatened the destruction of a large portion of the village. Villages in the vicinity of cities are sometimes exposed, not merely to fire from accident, but also from the incendiary. Where large amounts of property are thus exposed, *fire engines* are needed. It is not always practicable to procure them by private subscription, and when that is done the burden will be likely to fall upon the young and enterprising of moderate means, rather than be distributed according to the wealth of a place.

This large village is without an engine. The town has repeatedly refused to allow an assessment for the purchase of one, or to pay for the repair of one formerly procured by private means. A supposed collision of interest has necessarily produced some feeling.

The feeling of the inhabitants of the town upon the question of division, appears to have been differently expressed at different times.

In 1828 the northern part of the town, by a petition numerously signed, applied to the legislature for a division of the town, by or near the line now proposed. This was resisted by the other part, and failed.

On the 14th of May last, at a town meeting held in reference to the purchase of an engine, an informal vote was taken on the question of division, and carried in the affirmative with but few dissenting voices.

Thereupon a town meeting was called to be held on the 28th of that month, to act formally upon that subject. Due notice was given, and the warrant convened the inhabitants for that subject alone. The meeting was held, and the town voted by an almost unanimous vote in favor of the division—chose an agent to petition the legislature for that purpose, and instructed him so to do.

He presented his petition ; and after it was here, and an order of notice served, another meeting was called, at which the town reversed its former vote, and appointed another agent to oppose the division.

Upon service of notice of the petition of sundry citizens of the town in favor of division, another meeting was called and a majority of the meeting again voted against the division prayed for.

Petitions for the division have been presented, signed by about 250 of the inhabitants of the town. It was alledged that there were absent at sea more than 60 other citizens, who were desirous of the division. The remonstrances are signed by some 350.

It was contended by the remonstrants that the last votes of the town contained a full and fair expression of its desire against a division.

On the other hand it was urged on behalf of the petitioners, that the unquestioned wish of the northern part of the town in favor of a division, as expressed by their petition in 1828, and the informal vote in favor of it on the 14th of May, together with the nearly unanimous vote on the 28th of that month, at a meeting called expressly to take the sentiment of the town upon the question, indicated what the feeling of the town was before any excitement had been gotten up ; and that when the excitement should subside, the northern part of the town would stand as it stood when the subject was first agitated, and concur with the present petitioners, that the best thing that could be done for both parts, is to have a division.

The bill is liberal to the northern part. It proposes that the new town shall pay the old town, for its share of the town farm, the town house, and any sum a fair committee shall say it ought to pay towards the support of its bridges, in addition to the supporting the bridges which will be within its own limits.

As this is a question of *improvement to be permitted*, and that without injustice or hardship to the remonstrants, the committee were of opinion that the bill ought to pass.

If it had been intended to oppose the division, it should have

STATEMENT OF FACTS.

13

been done at the meeting called to consider that question ; and not send an agent here asking a division of the town, to be recalled by a majority vote changing that expression which was first given almost without dissent.

PHILO CLARK, *Chairman.*

[TRUE COPY.]

Some of the reasons in a petition of Uriel Whitney and William Buxton and one hundred and twenty-one others, citizens of North Yarmouth, October seventeenth, in the year of our Lord one thousand eight hundred and twenty-eight.

The geographical situation of the town affords every facility for said division. The population is sufficiently large to constitute two towns of respectable size, the different portions of which can be easily congregated in their respective divisions. The town, at one of its meetings in May last, very fully attended, gave their consent thereto, by a vote of a considerable portion of the inhabitants, a few only voting in the negative. Between the two portions of said town designated by said dividing line, there is little communication or commerce, and their business and pursuits are different and unconnected, leading them in almost opposite directions, which serve to keep them separate and distant from each other. The place at which the town meetings are held, and town offices established, is at such distance from the houses of the great majority of your petitioners as to make the transaction of public business very embarrassing, and at times impracticable, and the enjoyment of their franchise is thereby burthened with such inconveniences as render them at times almost valueless. Those situated on the northern boundary of said town, are compelled to travel to town meetings the distance of nearly eight miles, and at many portions of the year the badness of the roads and the inclemency of the weather deprive many of them of the privilege of attending said meetings. Should the town be divided, as your petitioners desire, both portions enabled to select such point in each of said divisions of the territory as would obviate in both cases the aforesaid inconveniences.

In conclusion, whilst your petitioners are daily suffering under these present difficulties, they cannot discover any obstacle to their removal. They therefore pray the legislature to take the prayer of their petition into deliberate consideration, and grant them the relief they supplicate.

Dated at North Yarmouth, October 17th, 1828.

STATE OF MAINE.

IN SENATE, July 18, 1849.

ORDERED, That 350 copies of the foregoing Bill and Statement of Facts, be printed for the use of the Legislature.

DANIEL T. PIKE, *Secretary.*

IN SENATE, July 19, 1849.

ORDERED, That the reasons set forth in the petition of William Buxton and als., for a division of the town of North Yarmouth, in 1828, be printed with the Bill and Statement of Facts for the division of North Yarmouth.

DANIEL T. PIKE, *Secretary.*