

MAINE STATE LEGISLATURE

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DOCUMENTS

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THE LEGISLATURE

OF THE

STATE OF MAINE,

DURING ITS SESSION

A. D. 1857.

PART SECOND.

AUGUSTA:
STEVENS & BLAINE, PRINTERS TO THE STATE.
1857.

THIRTY-SIXTH LEGISLATURE.

HOUSE.]

[No. 2.

REPORT OF THE COMMITTEE ON ELECTIONS.

HOUSE OF REPRESENTATIVES, }
Jan. 30, 1857. }

THE Committee on Elections, to whom was referred the Remonstrance of Firmin Cyr, against the right of William Dickey to a seat in this House, have had the same under consideration, have heard the evidence and arguments of the parties, and being unable to agree unanimously upon a final decision, and the questions presented being new, and important, ask leave to report the testimony offered in the case. The vote in the District stood for William Dickey 656, Firmin Cyr 517.

The Remonstrant introduced the notice, a copy of which is hereunto annexed, with the return thereon.

The sitting member objected to the sufficiency of the notice, and the service thereof on him. The Committee voted to hear all the evidence, without deciding upon the sufficiency of the notice, reserving to each party all their rights.

The testimony consists chiefly of depositions, objections to which were made by the several parties, but the depositions were admitted, *de bene esse*, reserving to the parties their legal rights — upon the final decision.

The Remonstrant's testimony was as follows :

1. Deposition of Harrison Knowles; who testifies that Dickey moved from Fort Kent the last of February or first of March, A. D. 1855; that he came back to Fort Kent with his wife and one child, August 16, 1856; that he afterwards removed the

rest of his family; and that a load of his furniture arrived the first Saturday in December, A. D., 1856.

2. Deposition of Washington Long :

That the last of June, or first of July, 1855, he met Dickey at Frederickton, in New Brunswick, and Dickey said to him in substance, that he formerly lived at Fish River, in Maine, but at that time lived in Haverhill, Mass. and "was engaged in conducting a lumber yard."

"That in October last, he rode in the stage with Dickey on the way to Houlton. Dickey had with him his three boys, and said he was on his way to Fish River.

3. A certificate from Registry of Deeds, showing that Dickey conveyed his house and other real estate at Fish River, &c., February 24, 1855, and that it was reconveyed to him March 31, 1856.

4. Deposition of S. W. Collins :

That in the winter of 1856, he met Dickey at Augusta, and Dickey told him that he had sold out his property, principally at Fish River, but that he had a little unsettled business which he was then going down or up to settle; that he was then living in Massachusetts, and intended to make that his future home.

2. [This deposition was objected to because the magistrate's certificate shows that Dickey was notified to appear Dec. 15, but the deponent not appearing, the magistrate adjourned to Dec. 22, and then to January 2, when the deposition was taken. Dickey not being present.]

5. Deposition of Henry M. West, as follows :

Question by Firmin Cyr. Did William Dickey sell out his real estate and household furniture at Fort Kent, Hancock Plantation, and move with his family to Haverhill, Massachusetts? If yes, at about what time?

Answer. Yes; he sold part of his real estate at Fort Kent, and part of the household furniture in March, 1855, and moved with his family to Haverhill, Mass., about that time.

Q. by same. Do you know that said Dickey has moved back from Massachusetts to Fort Kent? If yes, at about what time?

Ans. He moved back with his family about the 14th of August last.

Q. by W. Dickey. When did you purchase my house, and a portion of my furniture?

Ans. Some time in March, 1855.

Q. by same. How was the property deeded?

Ans. It was deeded to L. F. Jenkins.

Q. by same. Did I inform you at the time of the purchase, that I was going to Haverhill, and for what purpose?

Ans. You said you had purchased the mills at Haverhill, and it was necessary for you to go there to repair them—thought after you got them repaired, you might let your brother-in-law manage them, and might come back again within a year.

Q. by same. Did I not distinctly state to you that I left for a temporary purpose, and that my business connections with Mr. Sears and others was such that I should probably be back within a year?

Ans. Yes.

Q. by same. Please state where and when you bargained and sold the house back to me, and what the conversation was about my moving into same?

Ans. I bargained to sell the same at Haverhill, about the last of January, 1856; said Dickey wanted to move in immediately, as he wanted to bring in his horses to do his farming, and fetch in his family.

Q. by same. Did you have a conversation with me about breaking up housekeeping, and sending my family to Kendall's Mills, until I could have the house? If so, at what time, and what was the conversation?

Ans. I think I had a conversation the last of January, 1856, which was, that Dickey said he was about breaking up housekeeping, and sending his family to Kendall's Mills.

Q. by same. Did we agree to keep the transaction of the sale of the house to ourselves?

Ans. Yes.

Q. by same. Have I not continued my business here as though I had not been temporarily absent?

Ans. I do not know that you have.

Q. by same. Have I not continued my business here?

Ans. Yes.

H. N. WEST.

G. James A. Drew sworn.

I live in Rhode Island; was here in Augusta, March 18, 1856, and about the 20th met Dickey at Augusta House.

I asked him when he left Fish River. He said, about a year ago. I asked him "for good," and he said yes, and that he was doing business in Haverhill, Massachusetts.

Testimony introduced by Dickey.

1. Deposition of Levi Sears.

Question by W. Dickey. How long have you resided in this place?

Answer. Most of the time for twelve years.

Q. How long has Mr. Dickey resided here?

Ans. Most of the time for eight years.

Q. Please state the nature and amount of said Dickey's business since he came here, as nearly as you can?

Ans. When he came here he bought said mills of Mr. Bodfish, and has since cleared up a large amount of land, and farmed it extensively, — he built a grist mill, store-houses and barns, and carried on a large and extensive lumber business and trade.

Q. Please state what you know of the residence of said Dickey, and of all matters relative to the case?

Ans. In the spring of 1855, some time the last of February or first of March, Mr. Dickey informed me that his business required his attention at Haverhill, and he thought if he could sell his furniture he could move with small expense, and he would go; and as soon as he had arranged and repaired his property and mill there, *he should return and make this his home as heretofore.* He often told me that he was *going for a temporary purpose*, and when he had accomplished that object, he should return. He returned in the first of June, 1855, and engaged me to help build the school house, and charge his proportion to him, as he should soon return, and wanted a school for his children. He also gave the lot of land to build the school house on. I paid in some fifty dollars in building the same for Mr. Dickey, and he paid me the amount.

Q. Have you been connected with Mr. Dickey in business all the time since March, 1855?

Ans. Yes, I have.

Q. Was Mr. Dickey here to attend to his business in the summer of 1855?

Ans. He was.

Q. When did Mr. Dickey return permanently?

Ans. Some time the last of March he came in, and as he could not get board for his family, and could not have his house which he had bought back from Mr. West, he did not bring in his family with him, but informed me that he had broken up housekeeping in Haverhill, and his family were with his friends visiting at Kendall's Mills, Maine.

Q. Did Mr. Dickey ask you if you could board his family?

Ans. He did, but I could not.

Q. Has Mr. Dickey continued his business in this place?

Ans. He has.

Q. Did he purchase a horse team and some lots of land, and make arrangements to continue business in the summer of 1855?

Ans. He did.

Q. Did Mr. Dickey purchase a stock of goods in Boston, and send in, in the fall of 1855?

Ans. He did.

Q. Did Mr. Dickey send in a team of horses and a man to drive them in the winter of 1855 and '56?

Ans. He did.

LEVI SEARS.

2. Deposition of C. S. Hobbs.

That he is one of the Assessors of the Plantation; that about the last of February or the first of March A. D., 1855, he met Dickey at West's Store, and asked him if he was going to move off, and he replied that he was for a short time, but should soon return.

That on the 19th day of April, A. D. 1856, he did some business with Dickey at West's Store, and Dickey then informed him that he should move his family in as soon as the going would admit.

3. Deposition of Miles Emery, as follows:

Question by Mr. Dickey. Did you have a conversation with Mr. Dickey the first of April, 1856, relative to his residence in this place?

Answer. About the first of last April I met you at Mr. Tur-

ner's store. I asked you if you had come back to remain here and make it your home. You told me you had come to remain here. I asked you where your family was. You said they were at Kendall's Mills, Me. You would have moved them in by sleighing, but had no house to move into at that time. You said you should bring them in as soon as the spring opened. You said you had taken your house back, but Mr. West cannot move out at present.

Q. Were you one of the assessors of this plantation at that time?

Ans. I was.

Q. by Mr. Hawes. At the time you had this conversation with Mr. Dickey did you consider he had a residence here and had a right to vote?

Ans. I supposed he had a right to vote in plantation affairs.

Q. by Mr. Dickey. Did you and your associates, as assessors of this plantation consider William Dickey a legal voter here last September election and eligible to the office of representative to legislature for this district?

Ans. Mr. Dickey had for a long time been one of our active business men, and although temporarily absent for a few months previous to last March, we considered him a legal voter and eligible to any office in the gift of the people of this district, and no one thought of objecting to his eligibility or his right to vote at the time.

MILES EMERY.

4. Deposition of N. Campbell, as follows:

Q. by W. Dickey. What years had you charge of Mr. Dickey's Mills at Fish River?

Ans. In the years of 1853 and '54.

Q. When did you finally settle with Mr. Dickey?

Ans. The last of February or first of March, 1855.

Q. Please state as near as possible the conversation you had with Mr. Dickey at that time?

Ans. Mr. Dickey said he should like to have me go to Haverhill for a short time, but wanted me to continue in the mills here, as he should have all the lumber the same as heretofore, but was going to Haverhill to repair up his mills, but should return in a short time, and wanted me here to take charge of the mills. I

bought a cow of Mr. Dickey at that time and wanted another. He said he would not sell his Kennebec cow for a hundred dollars, for he wanted her when he returned, and would not part with her on any account.

Q. Did you have any other conversation with Mr. Dickey relative to his leaving here?

Ans. In the fall of 1854 I was at Mr. Dickey's house; he told me he had let Mr. Damon, who had once befriended him, have something like ten thousand dollars, and had taken mortgages on real estate in Haverhill, and that he was obliged to take the property, as he could not get the money, and should go on there, but would come back again, and at that time had engaged me to take charge of the mills here, as he had the lumber.

Q. by Mr. Hawes, as agent for Mr. Cyr. Should you judge from the conversation you had with Mr. Dickey, that he intended to bring his family back, or was coming back without them?

Ans. I have stated the facts; have nothing to say about opinions.

N. CAMPBELL.

5. Deposition of Joseph Wiles.

That some time the last of February or the first of March, A. D., 1855, I was settling with Dickey, and he informed me that he had property in Haverhill, and should go there for a short time. I wanted a receipt, which he gave me, and then asked me why I wanted it. I said because he was going away. He said it was true that he was going, but should make no permanent residence, and should continue his business here and return here with his family and make this his home, and considered this his home notwithstanding his temporary absence.

6. Deposition of Harper Allen, as follows:

Q. by W. Dickey. Did Mr. Dickey purchase horses and land of you in the month of June, 1855?

Ans. I sold Mr. Dickey two lots of land near the residence of said Dickey, and two team horses and rigging.

Q. Did Mr. Dickey say anything about living in this place?

Ans. At that time he endeavored to buy twenty acres of land back of the house in which he now resides, for a pasture, as he should soon return and wanted a pasture near his house.

Q. Did Mr. Dickey have any conversation with you in the spring of 1856? if so state what it was.

Ans. Sometime in March Mr. Dickey came into my house and he told me he had made arrangements and bought back his house of Mr. West, and intended to have brought in his family by sleighing, but he could not get the house so soon. Some time in May he again endeavored to buy twenty acres of land back of the house he had bought back of Mr. West, for a pasture, as he intended to move into the house as soon as he could have it.

HARPER ALLEN.

7. Deposition of Richard Violet, as follows :

Some time in the last of February, or first of March, 1855, I met Dickey and asked him if he was going to leave us for good. He said no; he should return soon,—that he must leave for a short time to arrange his business in Haverhill, but he left for a temporary purpose and should soon return,—that he should continue his business here and be here a part of the time.

7. The sitting member offered himself as a witness. It was objected that his testimony was not admissible. The committee determined to hear his evidence, reserving the question of its admissibility. Mr. Dickey was thereupon sworn and testified as follows :

I moved to Fish River in the Fall of 1848, and remained there till March, 1855. Family not there all the time. Went to Haverhill in March, 1855, and remained till March 6, 1856, and then went directly to Fish River, and have lived there all the time since. I paid rent in Haverhill till March 27, 1856, and then broke up housekeeping. My family were then scattered; one boy at Livermore at school, one at Skowhegan at school, and one at Chelsea with a niece. My wife and little girl went first to Kendall's Mills, visiting among their relatives,—then to Skowhegan, Waterville, Livermore, and Gardiner. I stopped at Fish River, and boarded with my brother-in-law. The reasons for leaving Fish River in 1855 were these :

I had loaned a gentleman in Haverhill, Mass., some money to the amount of about \$10,000, in 1854, taking a deed and mortgage of real estate as security. I visited him with my family in fall of 1856, and found he was in failing circumstances, and that I must

take the property. I then returned to Fish River with my wife and two children, and as the property at Haverhill was not in a condition to be sold, concluded I must go there and take charge of it, or lose it; I must repair it and put in new machinery. I could not leave my family at Fish River, but thinking I could leave and be gone a year or less, I made arrangement with Mr. Sears to carry on my business, and went to Haverhill with my family. In June, 1855, I returned to Fish River, leaving my family in Haverhill, and remained two months making arrangements for my fall and winter's work. In the fall I bought a stock of goods and sent in to Fish River. In January, 1856, I sold out all my business at Haverhill. I then made arrangements with West, to whom I had sold real estate at Fish River, to purchase it back. I then intended to take my family to Bangor and move in, but went to Bangor and learned that two of the Government houses at Fish River had been burned, and the family in mine could not move out, so I could get no house. On my way I saw Collins at Augusta, and might have seen Drew, but have no recollection of so doing. I had then sold out, and if Drew understood me to say what he has testified, he misunderstood me. I was not here as late as March 20. Passed this place March 6.

When I left Fish River, I owned wild lands, mortgaged real estate, farms, lots of land, and a large amount of debts. Leaving these would involve their total loss, and when I left I thought I might be gone a year or less, and my intention was to be gone only temporarily. I admit, I might have changed my mind, and remained at Haverhill, if things had turned out prosperously, but it was my intention to return and make it my home at Fish River. The conversation with Campbell and West, I recollect, and they were about the time of my leaving.

I sold my house, &c., at Fish River to raise funds to repair the property at Haverhill. When I was at Fish River in June, 1855, I gave a lot of land for school house, and contributed \$55 to build one. The State had given us \$200, on condition that we raised an equal amount among ourselves.

I did not get my family back to Fish River because I could not get them boarded there, and could get no house until the family moved out, which was not till September. I got there with my

wife and one child about August 15. I met her at Haverhill by appointment. I got there the last of July or first of August. Remained there visiting our friends about a week. I had no home there then, nor any building that I had any right to go into. When I left Haverhill in March, I left money with my wife to pay rent, having agreed with lessor to quit March 27. My family wished to remain until then, because the schools closed at that time. When I left there in March 1856, my intention was to go to Fish River, and make that my home,

Cross examination. I took my bedding when I went to Haverhill, and left no furniture at Fish River, except a little I could not dispose of. I had sold my store and mill previously. Hired a house at Haverhill and furnished so we could get along. Had no written lease, but hired for such time as I wanted it — no fixed time. My family were there from March 1855 to March 1856. I kept a lumber yard there in partnership with two others. We advertised — closed that business in January 1856. Do not know that the dissolution was advertised till after I left. Did not know it was necessary. When I left Haverhill, I took bedding and part of furniture, and sold the rest. We began to keep house at Fish River, not till October or November last, as I could not get the family out of my house. The rest of family went in, in October. The furniture left Haverhill in October; and some of it has not got to Fish River yet. Saw Mr. Gammon, of Phillips, in March, 1856.

Jeremiah Foster sworn.

Was at Fish River in May 1856, and remained there three weeks. Saw Dickey. He was engaged in business then.

N. Gammon, introduced by Remonstrant.

Am acquainted with Dickey. Met him on the way to Fish River, in March 1856. Cannot state the particular conversation, but got it from that conversation, that he then resided in Massachusetts, and was on his way down East, to look after unsettled business, and don't recollect of his saying that he had any intention of returning to Fish River to make it his home.

All of which is respectfully submitted.

Per Order.

WILLIAM DUREN, *Chairman.*

And the undersigned, a majority of the committee, further report that William Dickey, at the time of his election, was not eligible to a seat in this house; and that the remonstrant, Firmin Cyr, is entitled to his seat, and they ask leave to report the accompanying resolves.

WILLIAM DUREN, J. L. MOOR, A. B. WEED, SEWALL BRACKETT,	}	<i>Committee on Elections.</i>
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JANUARY, 1857.

The undersigned does not concur with the majority of the committee in the conclusion to which they have arrived, but considers that William Dickey is entitled to his seat.

JOSIAH H. DRUMMOND.

Copy of notice and return.

TO WILLIAM DICKEY:

I hereby notify you that I shall contest your seat as a representative to the legislature from the Madawaska District that is to meet at Augusta the first Wednesday of January next, upon the ground that you was not a citizen of the State.

FIRMIN CYR.

Madawaska Plantation, /
Nov. 28th, A. D. 1856. }

I do hereby certify that on the twenty-eighth day of November, 1856. I read the within notice to Mr. William Dickey at his residence in Hancock Plantation.

DANIEL SUGHRUE.

Aroostook County, Hancock Plantation, /
November 29. }

The above named Daniel Sughrue made oath to the above certificate by him subscribed, before me,

D. PAGE, *Justice of the Peace.*

STATE OF MAINE.

Resolved, That William Dickey at the time of his
2 election, not being eligible to a seat in this house, is
3 not entitled to hold the same.

Resolved, That Firmin Cyr having received all the
2 votes in the district, thrown for any eligible candidate,
3 is entitled to a seat in this house.

STATE OF MAINE.

IN HOUSE, Jun. 30, 1857.

ORDERED, That 350 copies of the foregoing Report of the Committee on
Elections be printed for the use of the House.

GEORGE W. WILCOX, *Clerk*.