

MAINE STATE LEGISLATURE

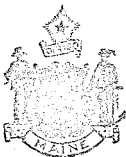
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4-19-1973
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*Standish
Frye Is.*

April 19, 1973

Representative Larry E. Simpson
House of Representatives
State House
Augusta, Maine

Dear Representative Simpson:

Thank you for your letter of April 10, 1973, concerning several pending bills that would separate Frye's Island from the Town of Standish.

Your letter does not mention any specific bill, but it seems to refer to L.D. 926, "An Act Setting Off Part of Standish to Raymond, Cumberland County" and to LD. 930, "An Act to Incorporate the Town of Frye Island, Cumberland County." I have examined those bills and it appears that L.D. 926 would transfer Frye Island from its present status as a part of the Town of Standish to a new status as a part of the Town of Raymond. L.D. 930 would transfer Frye Island from its present status as a part of the Town of Standish to a new status as a new and separate Town of Frye Island. It appears that the Town of Standish is a part of S.A.D. No. 6 and that the town of Raymond is not a part of that S.A.D. I understand your question to be: How would these proposed transfers of Frye Island from the Town of Standish to the Town of Raymond or to the new and separate town of Frye Island affect the bonded indebtedness of School Administrative District No. 6? The answer to that question is that such transfer might be unconstitutional in that it might be deemed to impair the obligation of contract.

In Canal National Bank, et al v. S.A.D. No. 3, 160 Me. 309, the Supreme Judicial Court of Maine declared that P & S L. 1963, C. 175, "An Act to Provide for the Reorganization of School Administrative District No. 3," by which the towns of Liberty, Brooks and Monroe were withdrawn from S.A.D. No. 3 was unconstitutional and void in that it impaired the obligation of the bonds of that S.A.D. The Court explained:

"By the 1963 Act an eleven town SAD No. 3 was reorganized as an eight town SAD No. 3. The power of the district to tax for payment of bonds and interest and the right of bondholders to satisfy a judgment against SAD No. 3 by levy on property throughout the

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eleven town district formed part of the contract on the bonds. The destruction of the power of the district to tax, or of the right of the bondholder to levy, in any one town of SAD No. 3 is an impairment of the obligation of the bond in violation of the contract clauses of the State and Federal Constitutions."

Since that decision, the Legislature, by P.L. 1971, Chapter 180, added the following terminal paragraph to 20 M.R.S.A. § 222:

"Whenever a municipality is detached from a district having outstanding indebtedness, and is transferred to another district, the municipality shall remain as part of the district from which detached for the purpose of paying its proper portion of such indebtedness until the same has been redeemed, but said municipality shall not be part of the district from which detached for the purpose of any outstanding indebtedness subsequent to the date of the certificate of transfer. Outstanding indebtedness, as used in this paragraph, means that indebtedness defined in this section. Such municipality shall be a part of the district to which transferred for all purposes."

If Frye Island were now a municipality, and the above-mentioned bills were to transfer that municipality to another SAD, its transfer would seem to be subject to the limitation in the last paragraph of 20 M.R.S.A. § 222, in that Frye Island would continue to remain liable for payment of the present SAD bonds. Such continuation of liability would probably be sufficient to avoid the unconstitutional effect of impairing the SAD bonds. However, Frye Island is not now a "municipality," but, instead, is simply a part of the Town of Standish. This presents a serious question as to whether or not a transfer of a "part" of a municipality by a legislative act which makes no mention of continuing the liability of the transferred portion of the former municipality for the purpose of discharging the SAD obligation under the bonds, would carry with such transfer the implicit limitation in the last paragraph of 20 M.R.S.A. § 222. While it certainly could be argued that this provision in Section 222 applies to a transfer of a part of a municipality, as well as to a transfer of a whole municipality, the legislative intent in that respect is not entirely clear.

Accordingly, in view of the serious consequences involved, it would seem to be appropriate to exercise caution in this matter. This can be accomplished by either incorporating in L.D. 926 and 930 the pertinent language from the above-quoted last paragraph of 20 M.R.S.A. § 222, or by amending that paragraph to make it clear that any transferred part of a municipality shall remain a part of the municipality from which detached for the purpose of paying its proper portion of the existing indebtedness.

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If you should desire to amend the last paragraph of 20 M.R.S.A. § 222 for this purpose, the following language is suggested:

"Whenever a municipality or a part of a municipality is detached from a district having outstanding indebtedness, ~~and is transferred to another district,~~ the municipality or part of municipality shall remain as part of the district from which detached for the purpose of paying its proper portion of such indebtedness until the same shall be redeemed, but said municipality or part of municipality shall not be part of the district from which detached for the purpose of any outstanding indebtedness incurred subsequent to the date of the certificate of transfer. Outstanding indebtedness, as used in this paragraph, means that indebtedness defined in this section. Such municipality or part of municipality shall be a part of the district or municipality to which transferred for all purposes."

However, if you should desire to amend L.D. 926 for this purpose, the following language is suggested:

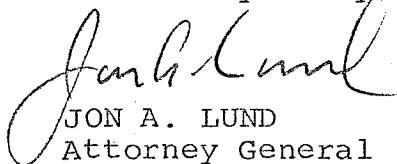
"Section 3. Continuing liability on School Administrative District No. 6 bonds. Frye Island shall remain as a part of School Administrative District No. 6 for the purposes of paying its proper portion of any outstanding indebtedness of School Administrative District No. 6 until the same has been redeemed, but Frye Island shall not be part of School Administrative District No. 6 for the purpose of any outstanding indebtedness incurred subsequent to the date of the certificate of transfer. Frye Island shall be a part of the Town of Raymond for all purposes."

If you should desire to amend L.D. 930 for this purpose, the first sentence in the above-suggested section 3 would seem to be appropriate.

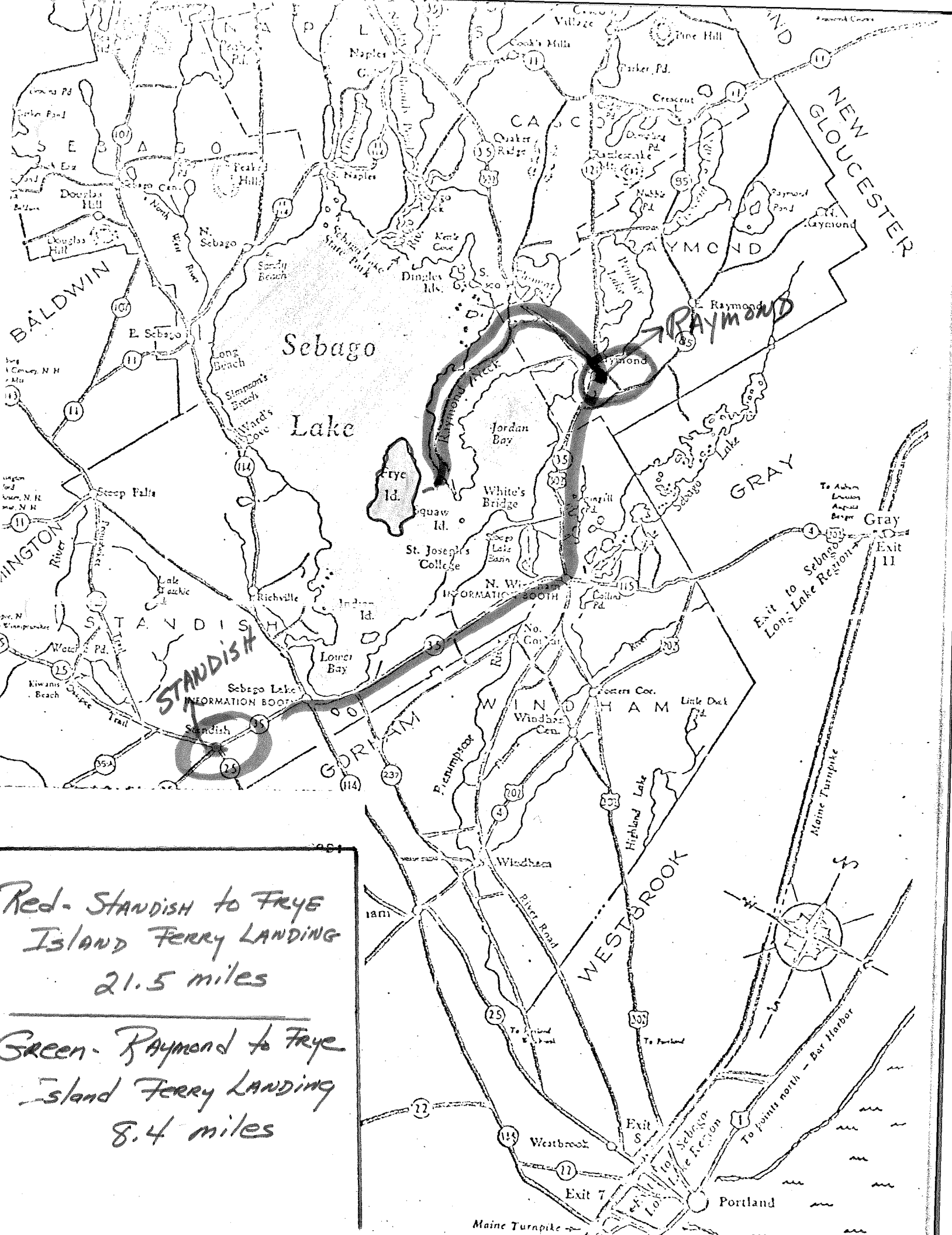
It is noted that L.D. 930 does not assign the new Town of Frye Island to particular Senate and House of Representatives districts. It would seem that this should be done to assure that the residents of Frye Island are not inadvertently disenfranchised.

If I can be of any further aid to you in this matter, please advise me.

Yours very truly,


JON A. LUND
Attorney General

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Red - STANDISH to FRYE
 Island Ferry LANDING
 21.5 miles

Green - RAYMOND to FRYE
 Island Ferry LANDING
 8.4 miles