

# 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)

LEGISLATIVE RESEARCH COMMITTEE

July 27-29, 1942

Testimony of GEORGE E. HILL

Re: Taxation wild lands.

LEGISLATIVE RESEARCH COMMITTEE

July 27-29, 1942

Testimony of GEORGE E. HILL

Re: Taxation wild lands.

Thursday, July 29, 9:00 A.M.

Testimony of GEORGE E. HILL, recalled:

MR. WEBBER: In connection with that paragraph which was in the first preliminary draft on shore lands and had to do with the percentage of assessments up to date and in arrears, when I explained to the Committee the reason why I had taken that out of this preliminary draft there was some question in their mind. Now I stated to them that your suggestion to me was that some owners who were subject to taxation might think they saw in that an escape from paying taxes or a method of escape, and the Committee thought they wanted to talk with you a little further on that line because they feel that in one sense at least that is information that the Legislature is entitled to and they want to be able to weigh what the danger is on the one side or the other. Will you develop that a little bit?

MR. HILL: Well, I raised that as a question or rather as a suggestion as to what the effect of such a statement in the report might be. The State has in recent years, through the appropriation for ascertaining the value of wild lands, found it necessary to incur considerable expense in litigating claims of land owners or appeals from the State valuation. Of course we want to proceed as far as possible under the appropriations available in our work of surveying and ascertaining the value of timber lands in the unorganized territory. Every lawsuit that we have cuts into that appropriation.

MR. WEBBER: George, what method of appeal do these people have now? I haven't bothered to check the statute on it.

MR. HILL: They take an appeal, I believe it is to the Superior Court. Under the statutory provisions a Commissioner -- the statute gives us the words "Commissioner" -- is appointed by the Court who hears the testimony and performs a function similar to that of a referee or possibly a special master and hears all of the testimony. In the, I think the last valuation dispute, which had been started before I took office and has since been settled, I believe the trial occupied some three weeks, roughly, in taking out the extremely technical evidence as to the growth and conditions affecting the value of timber on the particular tract that was involved in the controversy. Mr. Herbert Locke, of Augusta, had been retained by the State. He in recent years represented the State as an agent, I believe, of the Attorney General in handling these cases. The previous tax assessor felt, and I will agree with him, that a court decision which upset the State valuation in any particular case would have a very detrimental effect to the State as a whole because of its effect on all other valuations, because of its stimulation of the use of the appeal procedure, therefore the State devoted every possible effort to making the best possible presentation of the case through the

testimony of Mr. Sewall and those employed by him in their work in conducting these surveys. And may I add that so far as I know there has been no case in recent years, and probably since the statute providing for appeal was enacted, in which the State ever has been reversed by the Court.

MR. WEBBER: Mr. Payson wanted to know why we couldn't amend the present statute to take away from the owners any right of appeal unless they furnished the information which the machinery provides for here in much the same way that you cannot take an appeal on the ordinary tax in a city or town today.

MR. HILL: That would be very similar of course to the present procedure in a municipality, in which the taxpayer has no right of appeal if he fails to provide a true and perfect list which the statute requires. Offhand I should say that is a very good thought as far as it goes.

MR. PAYSON: You have a deadline August 30th., as I recall it in the statute, by which time they are supposed to have appeared and told you all about their land.

MR. HILL: That is true.

MR. PAYSON: I saw no reason why the same proposition used in cities and towns for their valuations could not be applied to that statute, thereby cutting off a great percentage of the appeals probably.

MR. HILL: As a matter of fact, the constitutionality or validity of the statute providing for the appeal, which was enacted only in recent years, has been, I believe, very seriously questioned by our counsel, Mr. Locke, although the point, I think, has not been raised in court. I should like to make available to the Committee, to Mr. Webber, and particularly any of the legal members of the Committee who might be interested, a copy of the opinion that was written by Judge Sturgis, Chief Justice Sturgis, serving as Commissioner under this statute, in which he discussed the testimony in one of these appeal cases, because I believe it would give to the Committee a better conception of the nature, the extremely technical nature of the evidence in such a case and of what is required by the statute in order to uphold a valuation. From that I think it would be clear to the Committee that a valuation established by the State based purely upon such information as land owners might submit at a meeting would never be sufficient to uphold the valuation that was determined in a court proceeding. It is my information that in the past meetings were held some years ago of the land owners under the provisions of that statute, that it was found that the information derived from these meetings was not and could not be sufficient to sustain a valuation in court, that such a valuation never could be sustained in court in the absence of a detailed cruise or survey through the timberlands.

The meetings, I am told, developed principally into discussions of a general nature and revealed very little detailed or specific information of the type that is required. I understand it was for that reason that some years ago those meetings were discontinued because they actually proved to be ineffective and not productive of the results required.

MR. PAYSON: What sort of information is required by the statute, George?

MR. WEBBER: Chapter 12, Section 9 and sections right around there.

CHAIRMAN DOW: George, it is worth while considering handling this the same as the municipalities, you think?

MR. HILL: Yes; I think that is a thought well worth considering.

CHAIRMAN DOW: It is worth a little study?

MR. HILL: I think so.

MR. WEBBER: I told the committee what you told me, that in your opinion there would be many instances where perfectly truthfully the owners themselves could not furnish the information on their own land; they simply would not have it.

MR. HILL: That certainly is true. There are a great many cases in which the owners have no detailed information and no recent information as to the character of the growth.



MR. PAYSON: You could, however, if they didn't or couldn't furnish the information required, thereby bar them from appeal?

MR. HILL: Yes.

(Statute read by Mr. Webber)

MR. WEBBER: You have got quite a weapon, if you have got that appeal provision tied in, to bar a great many of them from appeal, or else they will have to furnish you the information that you need.

MR. HILL: I am favorably impressed by that suggestion.

CHAIRMAN DOW: No reason why it is not just as fair as in the case of municipal owners?

MR. HILL: I know of no reason why it should not be.

In fact, until within a few years there was no provision for appeal. This statute is comparatively recent.

CHAIRMAN DOW: That would necessitate a repeal of that statute?

MR. WEBBER: Simply an addition to it. It seems, George, as though information you might obtain in that way with the gun loaded a little more fully than it has been before, although you might very properly not consider it what you would need to fight a case and you would undoubtedly want to supplement that a good deal if you saw a case coming, I cannot see why the information would not at least be helpful so far as it went. It would not be the complete story necessarily.

MR. HILL: It would be helpful as far as it went.

MR. WEBBER: I know your thought had been, until this discussion came up about the best thing to do with that part of the statute that set this machinery up, was simply to take it out of the books.

MR. HILL: That was more in reference to the provision which provides for assessing the expense of a cruise against the land owners. That, I think, is impracticable. For instance, I might say that if we were to undertake to carry out that provision we should have to cruise all of the townships in the unorganized territory of which we didn't have sufficient information in one year, which would take a greatly augmented crew over what we have now, and the statute limits the crew under that procedure to two persons, not exceeding two persons to be employed at that, which would be obviously inadequate to carry out those provisions. Furthermore, may I point out that if this should be done the State in the first instance would have to incur the entire expense of it which would run into many thousands of dollars for one year, and take its chances on recovering that money from the land owners. The funds, so far as I know, are not made available: there is no appropriation that I know of from which funds would be available to incur that initial expense. Then certainly if the expense were incurred you would run into a grave question as to whether it could be recovered in many cases because of means which may seem rather apparent ~~xxxx~~ of evading the effect of that provision. I refer

to evasion by the land owners. If I may look at the statute here just a moment. In the first place, in an effort to recover from the land owners I suppose at the outset the State would be confronted with the necessity of proving notice to the land owner as required by this provision: "any owner of wild lands herein named who, after notice in writing so to do, shall fail to furnish all the information, " and so forth. That would mean that at the outset we would have to notify in writing some 3500 land owners. In order to prove that notice it would have to be done, I assume, by registered mail at least. There is quite an item right there for registered mail to all of these land owners. Then assume that the land owner appears and says, "According to my best information which was acquired from a survey that was made thirty-five years ago, the conditions are thus and so," and he sets forth and gives us an opinion as to valuation which sounds unreasonable and later on, upon a cruise, proves to be unreasonable, I would assume that he has complied with the statute to the best of his ability, and then we would have to go and make a cruise before we got any added information upon his land, and still we would be unable to collect that expense from the land owner. I think that the Legislature some thirty-five years ago must have been convinced that this particular provision of the statute was unenforceable and was impracticable, because at that time they provided for cruises

to be made by the State itself and set up an appropriation for that purpose which has since been carried on and extended in the progress of years.

MR. PAYSON: Would you say, George, that you would have to do all your cruising in one year?

MR. HILL: Well, if the statute were regarded as mandatory, I would say that I did/<sup>not</sup> personally regard it as mandatory, but if it be mandatory I should assume that it meant that these cruises should be made every year or every two years, at least for every valuation.

MR. PAYSON: Is your information or the information of your department actually increasing on the knowledge of these wild lands, or are you even keeping up with it?

MR. HILL: Yes, it is increasing. Of course every year there is a certain amount that grows older, but we are acquiring new information, in my judgment, at a rate that exceeds the obsolescence of the old.

MR. PAYSON: But it is in rather minute progress as a net progress?

MR. HILL: It is a slow proposition, of course, with the limited crew.

MR. PAYSON: Understand I am not criticizing your department, George: I rather think the fault, if any, lies in the Legislature which has failed to provide sufficient funds to do this job possibly, although there may be a vehicle there for doing some of it -- I wouldn't know about that -- but how long would you consider the information contained in a cruise good, how many years?

MR. HILL: We consider it to be good information for a period of twenty years. After a period of twenty years it tends to become increasingly old and hence increasingly unreliable.

MR. LIBBY: Isn't it true, Mr. Hill, in some cases this wild land is being cut over and the timber taken off, which changes the value considerably?

MR. HILL: Yes. We do obtain returns of the cut from the owners from year to year, and the information that we obtain on each parcel throughout the state as to cut is of course taken into consideration each time the valuation is determined.

MR. PAYSON: George, check me on my mathematics: You must then check one-fifth of your wild land valuations each year to keep your information as good as it is now -- is that right -- if your information is good for twenty years.

MR. WEBBER: That is right, because at the end of twenty years you will have done it all once.

MR. PAYSON: You must be doing one-fifth of your wild land each year in order to keep up on the twenty-year standard?

MR. HILDRETH: No; it would be one-twentieth, if it is good for twenty years.

MR. PAYSON: No; one-fifth; otherwise your information is growing obsolete faster than you are gaining new information.

MR. HILL: Well, I don't want to be misunderstood on this point. After twenty years has elapsed the information is still of value: we do not consider it to be of the first quality after twenty years, but it is still of value.

MR. PAYSON: Yes; but of a very considerably decreased value.

MR. HILL: Decreased, yes. A survey twenty-one years old would, of course, other things being equal, be of more value than a survey thirty-one years old.

MR. PAYSON: To get at a phase of this that has interested me for some time: Didn't Alton Maxim get a re-valuation set-up through in 1939 or something like that, a division of the state?

MR. HILL: Yes; that had to do with assessments in municipalities. I think it is quite a different subject.

MR. PAYSON: It is a different subject, but it still all pertains to the appropriations for the tax assessor's office. Had the appropriations ever been furnished before we set that up?

MR. HILL: No appropriation whatever was made for that. That law provided that the State Tax Assessor, when in his judgment he deemed it appropriate, or words to that effect, might divide the state into not exceeding six assessment districts and appoint for each district a supervisor who should exercise supervision over the local boards of assessors within the district.

MR. PAYSON: Well, that calls for the expenditure of money if it is going to be done.

MR. HILL: Yes.

MR. PAYSON: And no appropriation.

MR. HILL: No appropriation has ever been made for that, and for that reason it has not been put into effect.

(Off record)

CHAIRMAN DOW: Could you tell from your experience so far in the department as to how close you are coming to one twentieth each year?

MR. HILL: I should not want to answer that question offhand. I can get the figure for you. As to number of townships cruised each year?

<sup>DOW</sup>  
MR. ~~PAYSON~~: Acreage, if you want to call it, what your actual position is in regard to this five per cent, whether you are doing it every twenty years.

MR. HILL: I should be glad to get for the committee that information.

<sup>DOW</sup>  
MR. ~~PAYSON~~: I don't want to bother you too much, but I thought it was a perfectly natural question to follow Mayo's.

(Off record)

---