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GENERAL ASSEMBLY, MAY SESSION, A. D. 1873.

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STATEMENT

OF THE

TOWN OF GLASTONBURY

CONCERNING

THEIR PETITION

VS.

THE TOWN OF WETHERSFIELD

TO MAKE THE

CONNECTICUT RIVER THE BOUNDARY LINE

BETWEEN SAID TOWNS.


HARTFORD:

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TOWN OF GLASTONBURY
VS.
TOWN OF WETHERSFIELD.

GENERAL ASSEMBLY,
May Session, A. D. 1873.

Committee on New Towns and Probate Districts.

PETITION to make the Connecticut River the Boundary Line between said towns.

The town of Glastonbury having appointed, at its adjourned Annual Town Meeting, held October 28th, 1872, the undersigned "a Committee to initiate and prosecute a Petition to the Legislature to obtain and secure the Connecticut River as the Boundary Line between said town and the town of Wethersfield," said Committee have brought such petition, dated April 16th, 1873, which was duly served the 18th of the same month.

At the time appointed by the Committee on New Towns and Probate Districts for the hearing on said Petition, May 21st, 1873, in answer to a brief statement on our part, an elaborate printed answer was read before and placed in the hands of the Committee, on the part of Wethersfield, which contains so many errors of fact that your Petitioners are obliged, by way of explanation, to reply thereto and state some of the grounds on which their Petition is founded.

It is claimed in our Petition :

I. "That the Connecticut River was the ancient jurisdiction line between said towns."

This is admitted to have been the case till 1770.

II. "That the present divisional line between said towns, as claimed by said Town of Wethersfield, and admitted by said Town of Glastonbury in part, crosses the said Connecticut River twice, leaving a large quantity of land belonging to each of said towns on the opposite side of said River therefrom."

We claim that the present line does not cross the river to Wright's Island. Wethersfield claims that it does.

III. "That said Boundary Line, as it at present exists, is the cause of long and expensive litigation between said towns."

This allegation Wethersfield, by their answer deny.

1. We reply, as to the first point, by saying, as to the *length* of such litigation; that for years the towns have been in controversy about the location of this line. As early as 1844, the town of Glastonbury passed votes agreeing to sustain its citizens in paying their taxes on this disputed land to our town, and in refusing to pay such taxes to Wethersfield. Glastonbury has collected those taxes, and Wethersfield has not attempted to enforce their collection.

In 1870, Glastonbury brought their Petition to the General Assembly for the alteration of this boundary so as to make the Connecticut River the line. It was not supposed that there would be any opposition on the part of Wethersfield. They did however oppose it, and the Committee agreed, after hearing the case, to report in favor of the change desired. Subsequently, however, they agreed to recommend a continuance to the following General Assembly, on Wethersfield's alleging the necessity of viewing the line by the committee, and it was so continued.

Pending this, the Town of Wethersfield brought their Petition to the Superior Court for Hartford County, at the December Term, 1870, instead of "the December Term, 1871," as stated in their answer, under the 16th section of the Act relating to Communities and Corporations. Said Court appointed a Committee, which, after sundry resignations, was finally constituted as named in the answer.

In 1871, a hearing was had before the proper Committee of the Legislature, but no suggestion to view the premises

was made by Wethersfield. It is understood that a majority at least of the Committee were desirous of reporting in our favor on terms of pecuniary compensation from us to Wethersfield, while a minority were unconditionally in our favor. We did not desire such a majority report, for if justice and equity gave us the line we sought, we should have had it without sale or denial; if not, we did not wish it. The General Assembly continued the petition a second time.

In April, 1872, a hearing was had by the Committee of the Superior Court. Their report we will examine in the order of time.

In April, 1872, after said hearing, Wethersfield brought their Petition to the General Assembly, asking for the restoration of the old line of 1770, so as to include the whole of Wright's Island on the east side of the river in Wethersfield, alleging among other reasons, that "a part of the jurisdictional line between said Towns was and is uncertain, indefinite and unknown," and "utterly impossible to determine even approximately." Further stating "that so a part of the jurisdictional line between said Towns is unsettled and unknown, and that great and unavoidable confusion and perplexity are occasioned to the petitioners and individuals." (What have the Legislature to do with private rights?) How idle it is for Wethersfield to claim, as they do in their answer, the "repeated refusals" of our Town to perambulate a line "impossible" to ascertain, as a basis for their petition to the Superior Court to "fix and establish" a line which they thus characterize. A line, which, as we are advised, is impossible for the Superior Court or any Committee thereof to *find*, fix or establish. On the two petitions the hearing was had, and the Committee, by a majority of their number, reported a resolution making the River the boundary. All the management used by Wethersfield, and an inspection of the locality, at their urgent request, *after* the matter had been decided in our favor, (all of which was no doubt extremely *patient* and *exhaustive* on the part of Wethersfield) did not change the majority. The matter, by means of a course of procedure we never desire to have recourse to, was indefinitely postponed

in the House, the resolution was passed by the Senate, the House adhered, and so the affair was disposed of for the time.

The Committee of the Superior Court made their Report to the December Term, 1872, and the acceptance thereof is now pending. We are advised that that does not, as asserted in Wethersfield's answer, "fix and establish" boundaries until it is *accepted* by the Court. Glastonbury does not propose to permit a Report to be accepted, if in their power to prevent it, which takes from our jurisdiction some 250 acres of land, the larger part of which we have had under our jurisdiction and control for nearly a hundred years. However "*able*" the Committee may be, they cannot establish a *new* line. They must find the *old* line not "substantially," but actually, a thing which Wethersfield said, less than a year ago, could not be done, or else their doings are of no validity.

The Committee of the Legislature, as well as the Legislature itself, can judge whether, looking not only to the past, but to the future, our assertion as to the *length* of this litigation is correct.

2. As to the second point, the *expensiveness* of the litigation caused by the present state of affairs,—the facts before recited imply it. Indeed, Wethersfield by stating that they have paid \$729.88 for Superior Court Committee fees alone, does away with their denial. No injustice to either Town will be allowed by the Court in the taxation of costs already incurred.

IV. Our petition says further, that the present line is "a source of great inconvenience and injustice to each of said towns and particularly to said Town of Glastonbury."

Perhaps we have stated it too broadly. It is, so far as we know, no inconvenience to Wethersfield to exercise dominion over this land on our side of the River. The only trouble and expense they have is to collect their taxes. In short, *the miserable, venal argument of excess of taxes, is the whole animus of Wethersfield's opposition to our claim.*

1. The line between Naubuc Farms and Wethersfield from 1635 to 1690, and from that date to 1770, between Glastonbury and Wethersfield was the Connecticut River. In 1770

an arbitrary line was established, in spite of our strenuous opposition, *without a measurement or a monument*, giving the whole bed of the ancient river to Wethersfield. At that time and for some years later, a ferry existed between these towns, so that the injustice of the line of 1770, in including land on the east side of the River, in Wethersfield, was not so marked as it has since become.

In 1792, upon the Petition of James Wright, the then owner of Wright's Island, said Island was set to Glastonbury, thereby changing the line of 1770 westward where it struck the head of the Island in 1792. Neither of these lines has ever been legally perambulated, nor has any examination of the north part thereof been made by the authorities of these Towns for nearly 50 years.

It is almost impossible to keep up bounds on this line if it can be found. The ice-freshets sweeping over these meadows, carry away the bounds, and the deposits made by the "freshet-floods" cover them up, so that their location is almost impossible to determine.

2. For 80 years, Glastonbury has exercised exclusive jurisdictional rights over Wright's Island and its accretions. In this, they are justified by the Resolution of annexation, of 1792. For the words making the western boundary of Wright's land the boundary between the Towns *were stricken from the Resolution as originally drawn*.

3. Between the high land and the meadows is a tract of land lower than either, and in many places a stream or cove is to be crossed. Most of the proprietors of the meadow proper have their private roads and causeways to get to and from their land. But these large tracts of land, on Wright's Island or the lower bend, and on Keeney's Point, require more expensive facilities for their accommodation. Glastonbury has laid out and maintained for some 80 years a highway from the main street to the land on Wright's Island. She has also built a highway, bridge and causeway from the street to the land on Keeney's Point, across the Cove, and still maintains them at great risk and expense. All these improvements enure to the benefit of these tracts of land, in-

creasing not only their market value, but their value for taxable purposes.

4. There are some 250 acres of land on Keeney's Point or upper bend, only about 20 acres of which are owned by residents of Wethersfield. She has not taxed quite 200 acres. All the other proprietors reside on the east side of the River, and all, except one, are desirous, for obvious reasons, of having this land taxed in Glastonbury.

In the middle bend are 200 acres justly belonging to Glastonbury, which Wethersfield, if she can be compelled to do her duty by the Courts, must accommodate. We have reason to believe that a majority of the proprietors owning land in the middle bend are in favor of our petition.

The difference then is 50 acres in our favor, one section being as valuable as the other. Taxed at \$100 per acre, in the list, it will produce about *one-quarter* of the expense which Glastonbury incurs every year on the Keeney's Point road, bridge, and causeway.

Wright's Island and all its accretions are *ours*, and whether it shall take a "long and expensive litigation" to establish the fact, will depend upon the reception of our petition in this case.

These several blocks of land are owned almost wholly by parties on the same side of the River, and if any sales are made, the tendency of transfers is wholly in that direction.

5. The general wear of the River, taking the entire length of our Town, is to the east instead of to the west. Such are the deductions of science, and so does experience teach us.

A glance at the map, or a view of the locality will satisfy any one that taking the River for the line, we shall from year to year lose as much or more land than we shall gain. It is not true that the encroachments are greater now than formerly. The River wears both above and below this locality, but is everywhere except here, and in one peculiar instance in this State the line between the towns on its banks.

No avulsion is to be apprehended, but if one should occur it is far more likely to rush through the Glastonbury Cove than at any other point. There never has been but one such

case on the Connecticut River since the settlement of the country—in the Northampton meadow.

6. It is true that there are no *human* residents on the land in question. So much the easier to do justice to these Towns, and the more is it right that the land should go to the Town by whose expenditures it is benefited, when no person's domicile is to be changed from one town to another.

7. Wethersfield, though one of the smallest towns in our State, is one of the richest, if not the most wealthy farming town in proportion to its size. Her Grand List is nearly as much as ours, with not one-fourth as much area. She has no large streams to bridge, and has to furnish highway facilities to only a very limited territory.

Glastonbury, although one of the largest towns in the State, has a large amount of rocky and mountainous land for which to furnish highways, many large streams over which she is obliged to erect and maintain some 40 large bridges, to say nothing of many causeways, small bridges, and sluices.

Now as between these towns, it being, as it is, a new question, which has the equitable and just right to tax the land on the east side of the River?

8. Besides, Wethersfield has never strenuously opposed the diminution of her territory, except in the cases of Wright's Island in 1792, and our petition to make the River the line. Is not the reason obvious to the most superficial observer?

9. The River is a *permanent* line so long as it rolls from the mountains to the sea. No need of perambulations or controversy about *that*. If private individuals have controversies, let them settle in the proper tribunals. For a jurisdiction line *affects no man's title*, either directly or indirectly.

10. As to our position as a Town in this matter: a town-meeting was held on the 24th inst., at which, after a full discussion and a thorough effort to get out all opposed to this petition, a motion to discharge the undersigned as a Committee, failed by a two-thirds vote.

We firmly believe that no person in Glastonbury who understands this matter is satisfied with the line reported by the Superior Court Committee. And we are as confident,

that this contest will continue with the candid approval of the great majority of our towns-people until the Legislature shall fix a just and equitable line—they being the only power having authority to establish a boundary through the whole distance in question.

THE TOWN OF GLASTONBURY,
 By THOMAS H. L. TALCOTT, }
 THADDEUS WELLES, } *Committee.*

Glastonbury, May 26, 1873.



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