

# HOUSE . . . . No 133.

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## Commonwealth of Massachusetts.

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HOUSE OF REPRESENTATIVES, Feb. 23, 1881.

The committee on Towns, to whom was referred the petition of H. H. Hunnewell and others for the incorporation of the town of Wellesley, respectfully submit the following

### REPORT.

After having fully considered all the evidence offered by the petitioners and by the remonstrants during a hearing which extended through a number of days; and after spending a day in carefully viewing the territory referred to in the petition; and after listening to the able arguments of counsel upon both sides of the question, a majority of the committee are of the opinion that the prayer of the petitioners should be granted.

The State of Massachusetts is for the most part made up of an aggregation of small democratic republics, called towns. These towns have been said to afford examples of as pure democracy as anywhere exists; they are an institution peculiar in their origin and development to New England, having no prototype.

Their creation was due to a desire to promote the convenience and happiness of clusters of persons settling in the neighborhood of each other, and having a community of interest, and to invest them with the most ample power of local self-government consistent with the general welfare. The towns thus constituted have power to do all those things which most materially affect the comfort, convenience, hap-

piness, and well-being of the people; and they have proved to be the chief source of the intellectual advancement and prosperity of the State at home, and of its predominant influence in the affairs of the nation. The town meeting has been the school in which our rulers and legislators have been trained. In order to best accomplish the purposes for which they were created, towns must be limited in size, and must be composed of neighboring people or communities who have an intimate acquaintance with each others' wants, and whose interests are common. If these elements are wanting, the action of the town will not fairly represent the wishes of the people, and the chief end of town government will fail of accomplishment. To quote the language of a report which, after careful consideration, received the approval of the legislature, "If the voters are too numerous in towns, when important interests are at stake, there can be no proper deliberate action, and, if the sections are hostile or rival, there will be log-rolling and management, which are fatal to a healthy public spirit, and to a proper and honest administration of town affairs."

It has always been the policy of the General Court to consult the convenience and the wishes of communities who are so situated that they believe that they can transact their own affairs more harmoniously, efficiently, and satisfactorily by themselves.

New towns have, therefore, been carved out of old ones, and old towns have been annexed to others, whenever it could be done without injury to the paramount interest of the Commonwealth, and whenever the persons chiefly interested have thought it for their advantage that the change should be made. Thus, for example, the town of Dedham, of which Needham was formerly a part, has been divided and subdivided — in each case against the protest of the parent town — until there are now within its original limits no less than eighteen towns or parts of towns. In erecting new towns, the number of inhabitants has been a matter of but minor importance. The present town of Needham had, when it was incorporated, but forty-five families; and these were set off, against the earnest protest of the parent town of Dedham, in order that they might more conveniently attend church. To come down to later days, — in 1864, Gosnold was

incorporated, with but a population of 108 souls; in 1870, Gay Head, with a population of 160; and in 1880, Cottage City, with a population of 679. Indeed, the average population of all the towns incorporated since 1776, including such places as Lowell, Lawrence, New Bedford, and the like, has been but 1,462, or about half that each of the towns of Needham and Wellesley would have after division.

Nor has the area or valuation of the new or of the old town been regarded in making divisions; for an examination of statistics shows that the areas of towns created within the past twenty years have varied from about 900 to about 13,000 acres; while their valuations have ranged from \$14,271 to \$1,076,322.

Nor have the relative areas or valuations of the towns been decisive; for the same statistics show that the excess has been sometimes on the side of the old town and sometimes on the side of the new town.

Take, for example, the case of the small town of Bolton, which arose but a few years since. There the legislature took from a small town a considerable portion of its area and of its population, and annexed them to the large town of Hudson, against the will of the town of Bolton, and simply for the reason that the population thus annexed desired the change for their own convenience.

Nor has much weight been attached to the expressed wishes of the community from which separation is sought; for probably there has never been an instance where the endeavor of a portion of the inhabitants of a town to secure for themselves an act of incorporation has not been met by a persistent, vigorous, and substantially unanimous opposition from the inhabitants of the other part of the town; and it may with truth be added, that there is probably no case on record where a majority of the inhabitants of any section of a town have asked for an act of incorporation, that the legislature has not ultimately granted their prayer.

The law-makers of the Commonwealth have, then, been of the opinion that local affairs are better administered, and the will of the people better expressed through communities in which there are as few elements of discord and disagreement as the nature of things will permit. They have acted upon the idea that towns were made for men, and not men for towns;

and have ever esteemed it a grievance for a community of persons to be forced to maintain town relations with another community when connection has ceased to be advantageous, and when such persons have come to believe it to be for their good that a separation should take place. The policy of the Commonwealth in this respect has been steadily pursued; and it has resulted in an unexampled prosperity of the State at home, and an influence abroad unwarranted by numbers or by situation. In every case, certainly of late years, has division resulted in increased prosperity, both to the part of the town set off, and to the part left. Unless some good reason is adduced to the contrary, we do not see why the policy, that in the past has produced such excellent results, should not be adhered to in the present instance.

The town of Needham was formerly part of Dedham, from which it was set off — comprising then but forty-five families — in 1711. It has at present an area of very nearly 15,000 acres, of which 13,000 are taxed.

In 1778 it was divided by an act of the General Court into the east and west parishes. The petitioners now ask that the town shall be divided by a line which, with a slight deviation at each end, will be nearly, if not quite, identical with the line dividing the parishes; and that the westerly part shall be erected into a new town by the name of Wellesley. The old town would then be left with 8,500 acres, while the new town would have about 6,500 acres. There is no great difference in the character of the land on either side of the line.

#### POPULATION.

In 1880 the population of the whole town was 5,248, of whom 2,538 lived in the East parish, which will remain the town of Needham; and 2,710 lived in the West parish, or the proposed town of Wellesley. The whole number of voters was 902; of whom 478 lived in the East, and 424 in the West parish. The fact that the east has the larger number of inhabitants, is due to the location, on the west side, of the Wellesley Female College, which has a large number of pupils who are counted as inhabitants of the town. The population of the town has just about doubled since 1865, and the increase, if we do not reckon in the pupils of the college, which has been established since that time, has been very equally distributed between the east and the west.

## VALUATION.

In 1880 the total valuation of the town, including bank and corporate stocks, was \$4,547,127 which was divided between the two sections as follows, viz.:—

	East.	West.
Real estate . . . . .	\$1,521,885	\$1,863,020
Personal estate . . . . .	222,140	752,222
Bank and corporate stock . . . . .	46,065	140,895
Total . . . . .	\$1,790,990	\$2,756,137

The property exempt from taxation on the east side amounts to \$37,700; and on the west side to \$662,435. The difference in the valuations of the two parts of the town is mainly in personal property, and is due almost entirely to the presence on the west side of two wealthy families. Persons of moderate means are pretty evenly divided between the east and the west, with a slight preponderance in favor of the east. The change of domicile by one person, who now has a summer residence on the east side, would nearly equalize the valuations of the two sections.

## SCHOOLS.

There are ten schoolhouses in the town, and of these six are on the east side, and four on the west side. In these schoolhouses there are twenty-five schools, including two high schools; fourteen schools including one high school, being on the east side, and eleven schools, also including one high school, being on the west side.

On the first of May, 1880, the whole number of scholars in the schools was 985. Of these, 512 attended school on the east side, and 473 on the west side. It appears from the testimony offered by the remonstrants, that, at the most, but six children belonging on the west side attended school on the east side; while not a child living on the east side attended school on the west side. It does not appear that the parents of these children object to the proposed separation. Indeed, no inconvenience need be apprehended on this score; for, in case of division, an agreement would be made between

the two towns similar to that at present existing between the towns of Needham and Natick, in reference to a few children who are so situated that it is more convenient for them to go to school in Natick than in Needham.

#### CHURCHES, &c.

Each parish has its own places for religious worship; and it did not appear in evidence that a single person ever crossed the parish line to attend church. The same remark is true in respect to post-offices and libraries.

#### THE TOWN HALL AND POOR FARM.

The Town Hall is situated in the second story of the Poor-house, which is a little to the west of the parish line, and about a mile and a quarter from the nearest village. The neighborhood of the Town Hall is a very sparsely inhabited district, there being no more than ten voters living within a radius of half a mile from it. The building was erected in 1839.

It is a plain, two-storied, wooden structure, and is in a fair state of repair. The hall was enlarged and refitted in 1874. It is at least a mile and a quarter from the nearest railroad station, and is situated very inconveniently for those who have business with the town authorities, and for the citizens of both sections of the town who wish to attend town meetings. As it is situated about midway between the more thickly settled parts of the two parishes, there is no probability that it will be moved to any other locality so long as the town remains undivided.

#### ROADS AND BRIDGES.

There are about seventy miles of roads in the town; and of these about thirty-eight are on the east, and about thirty-two are on the west. For the repair of roads each parish constitutes a separate district, and is under a separate superintendent. Although the miles of road in the east are more than in the west, yet equal sums have been appropriated each year for the care of roads, owing to some advantage the east has in the matter of obtaining material for this purpose.

There are over the Charles River twelve bridges which

the town is obliged to support jointly with other towns. Of this number, one stone and two wooden bridges are on the west side, and one iron, three wooden, and six stone bridges on the east side. The most difficult bridges to keep in repair are on the west side, but in order to avoid any inequality on this score the petitioners have made the proposition, which has been incorporated into the bill reported herewith, to pay to the east side a sum of money which, put at interest, will produce annually an amount sufficient to make the burden of maintaining the roads and bridges, in as good condition as they are at present maintained, fall upon both towns, in the proportion of their respective valuations.

#### TOWN DEBT AND PROPERTY.

The town debt is \$60,000, and will be divided between the towns in proportion to their respective valuations, which will give about \$23,000 to the east side and about \$37,000 to the west. The town property will, however, be equally divided between them, and, as the property on the west side is more valuable than that on the east, the difference will have to be paid for in money. This will give the east side a sum more than sufficient to obtain a new town hall in a central and convenient locality.

There could hardly be imagined a case where a town could be divided with less of a shock to the social, the business, and the political interests of the inhabitants.

For years there has been no community of interests, no natural connection between the two parts of the town; and since 1822 there has been on the part of the people of the west parish a constantly increasing desire for separation, until they now, with a remarkable approach to unanimity, ask it of the Legislature.

It appeared by the evidence of the remonstrants that, after a careful canvass, but seven persons living within the limits of the proposed new town were found to be opposed to division, and but ten were indifferent. This want of community of interest is easily accounted for. Through the east parish runs the Woonsocket division of the New York and New England Railroad, and on it are situated the villages of the Upper Falls, Highlandville, Needham Plains, and

Charles River Village, which together contain the great body of the inhabitants of the parish. Through the west parish runs the Boston and Albany Railroad, on which are situated the villages of the Lower Falls, Grantville, and Wellesley, with the body of the inhabitants of the west parish. Between these two thickly settled parts of the town is a sparsely inhabited belt of territory, of at least a mile in width, running from one side of the town to the other along the proposed line of division. Within this belt are some hundreds of acres of rough, woody land and swamp, and through it runs the Sudbury conduit. Up to the present time there seems to have been no appreciable tendency on the part of the population on either side of this belt to stretch across it towards each other. The result has been that it has formed, as it were, a natural boundary between the two parts of the town; so that there has been but little intercourse of any kind between them. Indeed, both sections have probably more intercourse with neighboring towns than with each other. In making the division there will be no tie to sever, and no need to cause a pang to any living person.

The people of the west side are so situated that they have many wants, and which the people of the east do not share in common with them: they desire to spend their money in their own way upon town improvements, and they believe that by so doing they will increase in numbers and prosperity. They also believe that separation will ultimately prove as great a boon to the people of the east as it will be to themselves. In this belief the majority of the committee join. There seems to be no reasonable ground to apprehend that the proposed division of the town will cause any loss or damage to the inhabitants of east parish. They will be left with a well-shaped territory, larger in extent than that of very many towns; with a population larger than 218 out of 326 towns in the Commonwealth; and a larger valuation than 223.

A majority of the committee, then, believe that by granting the prayers of the petitioners the Legislature will carry out the time-honored policy of the Commonwealth, and will do an act of justice, without injuriously affecting the rights

of any person or community. They therefore report the accompanying Bill.

For the Committee,

GEO. W. MORSE.

Mr. COOK of the Senate, and Mr. WILLCUTT of the House, dissent.

### VIEWS OF THE MINORITY.

THE undersigned, a minority of your committee, dissent from the report of the majority in presenting a "Bill" for the incorporation of the town of Wellesley, for the following among other reasons:—

The evidence presented to your committee fails to show that a majority of the legal voters of Needham favor division.

No grievance has been proved sufficiently important in its character to demand action by the Legislature of the nature asked for by the petitioners, the result of which, if adopted, may seriously affect the interests of all who are opposed to a division of the town.

Because the town, as at present constituted, contains the elements in population which give vitality to a community, and which are important and desirable to its growth, progress and development.

Because, by the evidence given, it appears that in the town of Needham the population would be largely composed of such persons as are engaged in agricultural pursuits, and of the working classes; while in the town of Wellesley reside men of wealth, owners of or representing large estates, and others engaged in active business within its limits or in the city of Boston.

Because the territory of the present town of Needham is not of so great extent as to be more inconvenient than most towns for the transaction of its public business, nor so large in population as to prevent a proper and efficient management of town affairs.

As now constituted, the town of Needham is very prosperous, its affairs judiciously and economically administered, taxation is not oppressive, and the public burdens are justly distributed among all classes of its citizens.

By the division of the town, Wellesley would have of highways to maintain six miles less than Needham, and three bridges; Needham, on the contrary, would have within its limits nine bridges to care for and to keep in repair.

In the evidence before your committee, the valuation of the new town of Wellesley would include, of

Real estate . . . . .	\$1,813,020
Personal . . . . .	752,222
Corporation and bank stock . . . . .	140,895
Total . . . . .	<u>\$2,756,137</u>

and of property exempt from taxation the sum of \$662,435; while in the town of Needham would remain, of

Real estate . . . . .	\$1,521,885
Personal . . . . .	222,140
Corporation and bank stock . . . . .	46,915
Total . . . . .	<u>\$1,790,990</u>

and of property exempt from taxation, \$37,600.

It may be claimed that, in the compensation provided for by sections 5 and 6 of the Bill now reported, any additional expense incurred by the town of Needham, in the care and maintenance of roads and bridges, will be fully satisfied, and that said town will not suffer pecuniarily by the separation; but it is not sufficiently apparent to the minority of your committee that an approximation can be made which will secure to said town an adequate remuneration for the added responsibility thus thrown upon them, the inequality of which would probably become greater and more apparent from year to year.

Furthermore, it is not clearly established, that in the compensation thus provided for, and in a division of the town property, additional burdens would not be imposed upon the town of Needham in the cost and in maintenance of new buildings for town purposes, for the support of schools, and for loss in population and valuation.

Finally, the minority of your committee dissent for reasons which they deem of great interest and importance, as affecting the right of every citizen of the Commonwealth, and to which they invite the particular attention of the members of the Legislature, prior to any action by which the will of a

majority of tax-payers shall be disregarded in the dismemberment of a town, where such result may impose additional hardship upon a large number of citizens. The interests of majorities in population should be carefully protected; justice demands that public burdens should not be imposed upon those least able to sustain them.

Towns are best constituted when the citizens are variously represented by the agricultural, manufacturing, working, and trading classes, and by men of wealth whose position may not depend upon active business; when so constituted, the advancement and prosperity of a town is best assured.

These requirements are largely fulfilled in the organization of the present town of Needham, and therefore the minority of your committee recommend that the petitioners have leave to withdraw.

S. M. COOK,

*Of the Senate.*

LEVI L. WILLCUTT,

*Of the House.*

## Commonwealth of Massachusetts.

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In the Year One Thousand Eight Hundred and Eighty-one.

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### AN ACT

To Incorporate the Town of Wellesley.

*Be it enacted by the Senate and House of Representatives in General Court assembled, and by the authority of the same, as follows :*

1 SECTION 1. All the territory lying within the  
2 limits of the town of Needham northerly and west-  
3 erly of a line beginning at a point in the boundary  
4 line between the towns of Needham and Dover sev-  
5 enty-five feet northerly from the central line of  
6 Charles-river street where it crosses Charles river ;  
7 thence running northeasterly about four miles and  
8 seventy-six one hundredths of a mile to a point in  
9 the centre of the reservoir, so-called, near the village  
10 of Newton Upper Falls, two hundred feet easterly  
11 from a point in the centre line of Reservoir street  
12 midway between the abutments of the bridge by  
13 which said Reservoir street crosses said reservoir ;  
14 thence running easterly by the centre line of said

15 reservoir about fourteen hundred feet to a point in  
16 the boundary line between the town of Needham and  
17 the city of Newton near the centre of Charles river,  
18 is hereby incorporated into a town by the name of  
19 Wellesley; and the said town is hereby invested  
20 with all the powers, privileges, rights, and immuni-  
21 ties, and is subject to all the duties and requisitions,  
22 to which other towns are entitled and subject by the  
23 constitution and laws of this Commonwealth.

1     SECT. 2. The inhabitants of said town of Welles-  
2 ley shall pay all taxes which have been legally  
3 assessed upon them by the town of Needham; and  
4 all such taxes not now collected shall be collected by  
5 and paid to the proper officers of the town of Need-  
6 ham in the same manner as if this act had not  
7 passed; and, until the next state valuation, the pro-  
8 portion of the state and county taxes to be assessed  
9 upon the towns of Needham and Wellesley shall be  
10 ascertained and determined by the last valuation of  
11 the town of Needham; and the assessors of the town  
12 of Needham shall make return of said valuation,  
13 and of the proportions thereof in the towns of Need-  
14 ham and Wellesley, respectively, to the secretary of  
15 the Commonwealth, and to the commissioners of the  
16 county of Norfolk.

1     SECT. 3. Said towns of Needham and Wellesley  
2 shall be respectively liable for the support of all per-  
3 sons who now are, or who shall hereafter be, in need  
4 of relief as paupers, whose settlements were gained,  
5 whether by original acquisition or by derivation, within

6 their respective limits; and the town of Wellesley  
7 shall pay annually to the town of Needham two-  
8 thirds of the cost paid by the town of Needham for the  
9 support or relief of paupers whose settlements were  
10 acquired in Needham, in consequence of military  
11 services in the war of the rebellion; *provided*, that  
12 the person who rendered such military services was  
13 not at the time of his enlistment an inhabitant of  
14 the town of Needham.

1     SECT. 4. All the property, both real and personal,  
2 including claims and rights of action, belonging to  
3 the town of Needham at the time of the passage of  
4 this act, shall be equally divided between the towns  
5 of Needham and Wellesley; *provided, however*, that  
6 each of said towns shall hold, retain, and own all of  
7 said property now within their respective limits; but  
8 if either of said towns shall hold and retain more  
9 than one-half in value of said property belonging to  
10 the town of Needham at the time of the passage of  
11 this act, such town shall pay to the other town a  
12 sum of money equal to the excess in value of the  
13 property so held and retained over one-half of all  
14 said property belonging to the town of Needham at  
15 the time of the passage of this act; *provided, never-*  
16 *theless*, that the town records, public documents,  
17 standard weights and measures, and other property  
18 of similar nature, shall be the property of, and  
19 remain in the custody of, the town of Needham.

1     SECT. 5. The town of Wellesley shall assume,  
2 pay, and discharge a proportion of all the debts and

3 liabilities of the town of Needham at the time of the  
4 passage of this act, equal to the proportion which  
5 the assessors' valuation of the taxable property, real  
6 and personal, within the limits of the town of Wel-  
7 lesley bore to the assessors' valuation of the whole  
8 amount of taxable property, real and personal, in the  
9 town of Needham on the first day of May last past.

1     SECT. 6. The town of Wellesley shall pay to the  
2 town of Needham a sum of money which will pro-  
3 duce annually at interest a sum equivalent to a pro-  
4 portionate part of the excess, if any there shall be,  
5 of the estimated annual cost of maintaining, in as  
6 good condition as they are at present maintained, the  
7 roads and bridges in said town of Needham, over and  
8 above the estimated average annual cost of maintain-  
9 ing, in as good condition as they are at present main-  
10 tained, the roads and bridges in the town of Welles-  
11 ley, which proportion shall bear the same relation to  
12 the whole of said excess that the assessed valuation,  
13 real and personal, within the limits of the town of  
14 Wellesley bore to the whole assessed valuation of the  
15 real and personal estate of the town of Needham on  
16 the first day of May last past.

1     SECT. 7. The town of Wellesley shall receive one  
2 half of whatever amount may be refunded to the  
3 town of Needham from the Commonwealth or the  
4 United States to reimburse said town of Needham  
5 for bounties to soldiers, or state aid paid to the family  
6 of any soldier, after deducting reasonable expenses.

1     SECT. 8. The town of Wellesley shall bear the  
2 expense of making the survey of and establishing  
3 the line between the towns of Needham and  
4 Wellesley.

1     SECT. 9. All suits and proceedings at law or in  
2 equity, where the cause of action in favor of or  
3 against the town of Needham arose before the  
4 passage of this act, may be instituted, prosecuted,  
5 or defended, as the case may be, by the town of  
6 Needham in the same manner and with the same  
7 effect as if this act had not been passed; and the  
8 amount recovered in any such suit or proceeding  
9 by or against the town of Needham shall be re-  
10 ceived or paid, as the case may be, and divided be-  
11 tween the towns of Needham and Wellesley in the  
12 same proportions as the public property and debts of  
13 said town of Needham are required to be divided by  
14 this act.

1     SECT. 10. In case the towns of Needham and  
2 Wellesley shall not agree in respect to the division  
3 of the property or debts of the town of Needham,  
4 or in respect to the establishment of the boundary  
5 line between said towns, or with respect to the  
6 amount of money, if any, to be paid by the town of  
7 Wellesley to the town of Needham under the pro-  
8 visions of the sixth section of this act, the supreme  
9 judicial court for the county of Norfolk shall, upon  
10 petition of either one of said towns, and after rea-  
11 sonable notice to the other, appoint three discreet  
12 persons as commissioners to hear the parties and

13 determine the differences. Said petition may be  
14 filed and said appointment may be made in vacation  
15 or in term time. The award of a majority of said  
16 commissioners, when returned to and accepted by  
17 the court, shall be final; but the court shall have  
18 power, for proper cause shown, to set aside said  
19 award, or to recommit it to the commissioners, or to  
20 remove said commissioners and to appoint others in  
21 their stead. And the court shall have power to  
22 render judgment or make any order or decree upon  
23 said award, to issue execution or any other proper  
24 process to enforce such judgment, decree, or order.

1   SECT. 11. The town of Wellesley shall, until  
2 otherwise provided by law, continue to be a part of  
3 the eighth congressional district, of the second coun-  
4 cillor district, of the second Norfolk senatorial dis-  
5 trict and of the ninth representative district of  
6 Norfolk county. The inhabitants of said town of  
7 Wellesley shall vote for each of said officers in the  
8 town of Wellesley. The selectmen and clerk of  
9 said town of Wellesley in each of said cases shall  
10 make returns as if said town had existed at the  
11 time of the formation of said districts.

1   SECT. 12. Any justice of the peace, within and  
2 for the county of Norfolk, whose residence is in the  
3 town of Wellesley, may issue his warrant, directed to  
4 any inhabitant of said town of Wellesley, requiring  
5 him to notify and warn the inhabitants thereof, qual-  
6 ified to vote in town affairs, to meet at the time and  
7 place therein appointed for the purpose of choosing

8 all such officers as towns are by law authorized and  
9 required to choose at their annual meetings; and  
10 said warrant shall be served by posting up copies  
11 thereof, attested by the person to whom the same is  
12 directed, in three or more public places in said town  
13 of Wellesley, seven days, at least, before such time  
14 of meeting. Such justice, or, in his absence, such in-  
15 habitant required to notify the meeting, shall preside  
16 until the choice of moderator in said town meeting.  
17 The selectmen of said town of Needham shall, be-  
18 fore said meeting, prepare a list of voters in said  
19 town of Wellesley, qualified to vote at said meetng,  
20 and shall deliver the same to the person presiding at  
21 such meeting before the choice of moderator thereof.

1 SECT. 13. This act shall take effect upon its pas-  
2 sage.



