

MAINE STATE LEGISLATURE

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FIFTY-THIRD LEGISLATURE.

SENATE.

No. 42.

STATE OF MAINE.

The Committee on Towns, to which was referred the petition of William Atwood and others of Cape Elizabeth, praying that they may be annexed to the city of Portland, have had the same under consideration, and ask leave to report that the petitioners have leave to withdraw.

Per order.

J. K. MARTIN.

MINORITY REPORT.

The Minority Report of the Committee on Towns, to which was referred the petition of William Atwood and others of Cape Elizabeth, praying that they may be annexed to the city of Portland, having acted with the Committee in hearing the parties thereon, and being unable to agree with the majority of said Committee, submit for the consideration of the Legislature the facts and reasons which have compelled us to differ from the majority. We therefore ask leave to report a bill, which is herewith submitted.

WM. H. ROUNDS, JR.,
GEORGE ALDRICH,
JAMES McCARTY.

STATE OF MAINE.

IN THE YEAR OF OUR LORD ONE THOUSAND EIGHT HUNDRED AND
SEVENTY-FOUR.

AN ACT to set off a part of the town of Cape Elizabeth
and annex the same to the city of Portland.

*Be it enacted by the Senate and House of Representatives
in Legislature assembled, as follows :*

SECTION 1. All that part of the town of Cape Eliz-
2 abeth, in the county of Cumberland, lying northerly
3 and westerly of the following described line, namely :
4 commencing at the southerly corner of the cemetery,
5 at the sea shore ; thence northerly on a line between
6 the United States' land and Buzzell's land to the south
7 side of Preble street ; thence southerly by Preble street
8 and continuing the same course to Captain Water-
9 house's land ; thence northerly on said Waterhouse's
10 land to the northeast corner thereof ; thence westerly
11 on a line between said Waterhouse's and B. Cobb's
12 land to Preble street ; thence northwesterly in the line
13 of said street to a point in the line opposite the north-
14 west corner of S. Jordan's lot ; thence southerly on

15 the line between S. Jordan's and Mrs. Tolbert's, and
16 continuing on the same line to the westerly corner of
17 lot marked Capt. J. B. Woodbury; thence westerly
18 to the angle of the old Ferry road; thence on a line
19 of said road to the Cottage road; thence continuing
20 on Cottage road to the intersection of Broadway with
21 said road; thence in a direct line to the northerly cor-
22 ner of J. Bradley's lot; thence westerly on the line
23 of Summer street to Anthoine street; thence southerly
24 on a line of Anthoine street to a point opposite the
25 easterly corner of G. Osborne's lot; thence westerly to
26 the westerly corner of Osborne's lot; thence south
27 eighty degrees west to the east line of Eben Nutter's
28 land; thence southerly by said Nutter's land to the
29 Barren Hill road; thence westerly by the Barren Hill
30 road to the west line of E. D. Crocker's land; thence
31 north forty-four and one-half degrees west by Crocker
32 and others to the Portland, Saco and Portsmouth
33 railroad; thence northerly in a direct line to the north
34 corner of Church and Brown streets; thence north-
35 westerly by Brown street to the northwest line of Wil-
36 liam Atwood's land, thence northeasterly by William
37 Atwood's land (196) one hundred ninety-six feet;
38 thence north fifty-two and one-half degrees west across
39 the Saco road; thence southwesterly by the Saco road
40 to the southerly corner of Mount Calvary cemetery;

41 thence westerly by said cemetery to Long Creek; thence
42 in a direct line to the southerly corner of the State
43 Reform School land; thence on the westerly line of
44 said school land to the Broad road, thence northerly
45 by the Broad road to Deering line, thence easterly by
46 Deering line to Fore river, with the inhabitants and
47 estates therein, is hereby set off from the town of Cape
48 Elizabeth and annexed to the city of Portland in the
49 county of Cumberland; subject to the same municipal
50 regulations, obligations and liabilities, and entitled to
51 the same immunities in all respects as the said city of
52 Portland: *provided, however,* that all roads and streets
53 herein named as boundary lines, shall be included in
54 and maintained by said city, subject to the control of
55 the commissioners of said county.

SECT. 2. The said territory, hereby annexed, shall
2 constitute a ward of the city of Portland, to be called
3 ward eight. And the ward so established shall be en-
4 titled to all the municipal and ward officers, and to all
5 the rights to which each of the other wards of said
6 city is entitled. The board of mayor and aldermen of
7 said city shall, in due season, issue their warrant, for
8 a meeting of the legal voters of said ward to be held
9 on the first Monday of March in the year eighteen
10 hundred and seventy-four, at some place in said ward,
11 to be designated in said warrant, there, first to choose

12 a warden, clerk, and one constable for said ward, who
13 shall hold their offices until the first Monday of March
14 in the year eighteen hundred and seventy-five, and
15 until others shall be chosen and qualified in their stead;
16 second, to give in their ballots for the several municipi-
17 pal and ward officers for the year eighteen hundred
18 and seventy-four, for which they shall be entitled to
19 vote by virtue of the provisions of this act. The
20 board of mayor and aldermen shall prepare a list of
21 the legal voters in said ward, to be used at said meet-
22 ing, and shall do all other things which they are now
23 by law required to do in respect to like elections in
24 other wards; and at said meeting any legal voter of
25 said ward may call the citizens to order, and preside
26 until a warden is chosen and qualified; all ward officers
27 whose election is provided for in this act shall be qual-
28 ified according to law. The citizens of said territory
29 shall have the same right to vote for municipal officers
30 at the annual municipal election in the year eighteen
31 hundred and seventy-four, as they would have had if
32 said territory had formed part of said city for more
33 than three months next before said election.

SECT. 3. Hereafter the board of aldermen of said
2 city shall consist of eight members, and the board of
3 common council of twenty-four members; and the ter-
4 ritory hereby annexed shall be entitled to elect one

5 alderman and three common councilmen to the city
6 council of said city.

SECT. 4. The charter of the city of Portland, and
2 the several acts passed in addition thereto, are hereby
3 amended, so as to conform to the provisions of this
4 act, and so much of the revised statutes and laws as
5 may be inconsistent with this act, is amended, so as
6 to conform to the provisions herein contained.

SECT. 5. Said city of Portland shall be holden to
2 pay to said town of Cape Elizabeth, two-thirds part
3 of all debts and liabilities of Cape Elizabeth now ex-
4 isting, upon contract or otherwise, or which may here-
5 after arise in consequence of any and all suits at law
6 pending for or against said town, or which may here-
7 after be commenced on any cause of action which
8 may now exist against said town of Cape Elizabeth,
9 the same to be paid to said town, when said liabilities
10 mature, and all actions now pending, shall be prose-
11 cuted to final judgment, unless otherwise ordered by
12 the concurrence of the municipal officers of said city
13 and town.

SECT. 6. The several inhabitants of the territory,
2 by this act annexed to the city of Portland, shall be
3 holden to pay all taxes which have been legally
4 assessed upon them by the town of Cape Elizabeth,
5 and the several collectors of taxes for said town of

6 Cape Elizabeth are hereby authorized and required to
7 collect and pay all taxes to them already committed
8 according to their respective warrants. All moneys
9 now in the treasury of said town of Cape Elizabeth,
10 and all sums which shall hereafter be collected from
11 taxes heretofore assessed shall be applied by the treas-
12 urer of the town of Cape Elizabeth, in payment of
13 the indebtedness of said town, existing at the date
14 when this act shall take effect.

SECT. 7. All the property of the several school dis-
2 tricts, lying within the territory by this act annexed
3 to said city of Portland, shall be vested in, and is
4 hereby declared to be the property of said city, and
5 said city shall assume and shall be holden to pay all
6 the indebtedness of said several school districts in-
7 curred in behalf of said property ; said school districts
8 shall hereafter form a part of the public school sys-
9 tem of the city of Portland, and shall be subject to
10 the same management and control.

SECT. 8. The justice of the supreme judicial court,
2 who shall hold the term of said court at Portland with-
3 in and for the county of Cumberland, on the second
4 Tuesday of April in the year of our Lord one thousand
5 eight hundred and seventy-four, after notice to both
6 parties, shall appoint three disinterested persons a
7 board of commissioners, and fill any vacancy in the

8 board occurring at any time, who shall as soon as
9 practicable proceed to examine all personal property
10 (except the books and records) owned by the present
11 town of Cape Elizabeth, and shall appraise the same ;
12 and they shall ascertain the number of paupers sup-
13 ported in whole or in part by the town of Cape Eliza-
14 beth at the time this act takes effect ; and said com-
15 missioners, after hearing the parties, shall in writing
16 make an award in relation to any of the matters herein
17 submitted to them, which award shall be deposited by
18 said commissioners with the clerks of said town and
19 city, and be entered upon the records of the same; and
20 said award shall determine what division of the per-
21 sonal property, except the books and records, shall be
22 made, and to which town each article shall belong ;
23 for all articles awarded to the town of Cape Elizabeth
24 said town of Cape Elizabeth shall pay to said city of
25 Portland two-thirds of the value thereof, as appraised
26 by said commissioners ; for each article awarded to the
27 city of Portland, said city shall pay to said town of
28 Cape Elizabeth one-third of the value thereof, as ap-
29 praised by said commissioners, and said awards shall
30 be held to transfer the property so awarded to said
31 town and city. In the division of paupers, said com-
32 missioners shall award to each town to support those,

33 as near as may be, who resided on the territories of
34 each when they last became paupers; and in regard to
35 those whose residences cannot be ascertained, they
36 shall make an equitable division. And said commis-
37 sioners shall make an award in regard to all matters
38 and questions arising by reason of the division of said
39 town, not herein specially provided for, and upon
40 either and all of said matters the said awards of said
41 commissioners or a majority of them shall be final ;
42 and all sums of money so awarded by said commis-
43 sioners shall be paid within six months from the date
44 of said awards. The expense of said board of com-
45 missioners to be paid equally by said city and town.

SECT. 9. All real estate belonging to the town of
2 Cape Elizabeth lying within the territory hereby an-
3 nexed to the city of Portland, shall be vested in and
4 become the property of said city, and all such real
5 estate without said territory shall remain the property
6 of said town.

SECT. 10. All persons hereafter becoming charge-
2 able as paupers shall be chargeable to that town on
3 whose territory they last resided.

SECT. 11. The state valuation of the town of Cape
2 Elizabeth shall be reduced two-thirds, and the state
3 valuation of the city of Portland shall be increased by
4 an amount not exceeding two-thirds of the state val-

5 uation of the town of Cape Elizabeth in the year
6 eighteen hundred and seventy; and all state and county
7 taxes hereafter shall be assessed accordingly.

SECT. 12. All the records and papers of the town
2 of Cape Elizabeth shall be hereafter retained by said
3 town as the exclusive depository of the same, to which
4 both said city and said town shall at all times have
5 access.

SECT. 13. This act shall take effect when approved.

STATEMENT OF FACTS.

The town of Cape Elizabeth had in 1870, a population of 5,106, and a State valuation of \$1,734,831. These figures answer pretty nearly for the present time.

The town is divided into two sections, differing entirely in the character of their business and social interests.

Lying upon the margin of Portland harbor is comparatively a narrow strip containing four villages—known as “Ferry Village,” “Turner’s Island,” “Knightville,” and “Ligonia,” comprising about one-half of the population, and about four-sevenths of the valuation of the town. It is this portion which the petitioners ask to have annexed to the city of Portland. Among the reasons which they give, are the following :

This harbor section has various industries, the outgrowth of the business of Portland, with very little practical connection with agriculture. These industries are sustained in part, by foreign capital, but mainly by Portland merchants.

It has a large population of mechanics and operatives employed in the manufactories and other enterprises within its limits and in the city of Portland.

This class, as is usually the case, own but little real estate, and are not permanent residents. In all respects, they more resemble the mass of the population of a city, than of a farming community.

These villages being somewhat compactly settled, are subject, more or less, to the dangers and necessities of large towns and cities. They ought now to have, and will, daily increasingly, need an organized police force, an efficient fire department, graded schools, improved streets, sewers, and sidewalks, which they cannot now obtain without serious exertion and annoyance, or which, at least, could far more properly, less expensively and more easily be gained by becoming a part of the city of Portland.

The petitioners state that they have assurances from capitalists that their water front will be built up with wharves, docks and

ware-houses, all ready needed by the city of Portland, very speedily upon annexation to that city, but not at all readily while that frontage is to a large extent controlled by a farming community.

The interests of the shore villages being so far identical with those of the city of Portland, the need of better and more frequent inter-communication between the two points, is, and has been for many years, very strongly felt. It is evident that if both sides of the harbor are under one control, this matter can no longer remain a vexed question, but will be decided speedily, according to the interests of the whole community.

Ferry Village, in particular, has been a sufferer in this regard. The matter of establishing a ferry between that village and Portland has been tossed back and forth between Cape Elizabeth and Portland—the former claiming that as Portland business needs the ferry, that city ought to build it; and the latter, that Cape Elizabeth should provide it, as being the town in which those who would use it pay their taxes.

Ligonia Village, at the other extremity of the strip, has been, and is in great need of a bridge at a certain point within its territory, and has been so far able to convince the Legislature of the general public benefit to be derived from its construction as to secure a State appropriation of \$2,500 in aid of it. But Cape Elizabeth, as a whole, refuses to do its part, and even goes into court to resist payment. The advantages of the bridge to the city of Portland would be such; that the petitioners have no doubt that they could soon secure the completion of this important work on becoming a part of that city.

In regard to the effect of the proposed division upon the remaining section of the town, the petitioners represent as follows:

The interests of that section are almost wholly agricultural. The population is principally made up of farmers and market gardeners. Four-fifths of the resident real estate tax of the town is paid by the inhabitants of this part. The houses are farther apart; the residents are permanent.

The back part of the town having no interest in common with the villages, has not contributed to any appreciable extent to build up those villages.

While the villages pay one-half the taxes, their growing wants require an expenditure of at least two-thirds, and the disproportion will steadily increase.

In the event of division, it is proposed that Portland shall assume two-thirds of the whole debt of the town, while the true proportion is four-sevenths. Thus, a direct benefit would result to the town.

While the villages take from the town a large valuation, they leave in the remaining section less need of expenditure, and the taxes would, as a consequence, be largely reduced.

Cape Elizabeth, after the division, will have a large area of rich farming land, and will contain many men of wealth. It will, then, be a purely agricultural town, and place of summer resort, such as it has been for years past, in that section, by persons seeking health or pleasure, from all parts of the United States and the Dominion of Canada.

It is admitted by the petitioners that in case of annexation, some of the school districts will be divided in an unsatisfactory manner for some individuals; but they claim that these districts can easily be reorganized without additional expense, and without detriment to the town. At the same time, the proposed division, if accomplished, will relieve the town from four competing localities for a high school, and leave one that would unquestionably accommodate the entire remaining town; whereas, now, conflicting interests prevent, and must while the town is undivided, continue to prevent the location of such a school any where in town.

The petitions before the committee, are signed by nearly five hundred persons, which number comprises nearly all the male citizens of the section which it is proposed to set off.

The movement for annexation, commenced, was carried on and perfected within these villages, without the aid or interference of the city of Portland. It was not till after the movement had made great progress in the villages, and after much deliberation on the part of the government and citizens of Portland, that it was determined at all satisfactorily, that Portland was in favor of the project.

STATE OF MAINE.

IN SENATE, February 18, 1874.

On motion of Mr. WEBB of Kennebec, ordered to be printed
with the minority report and statement of facts.

SAMUEL W. LANE, *Secretary.*