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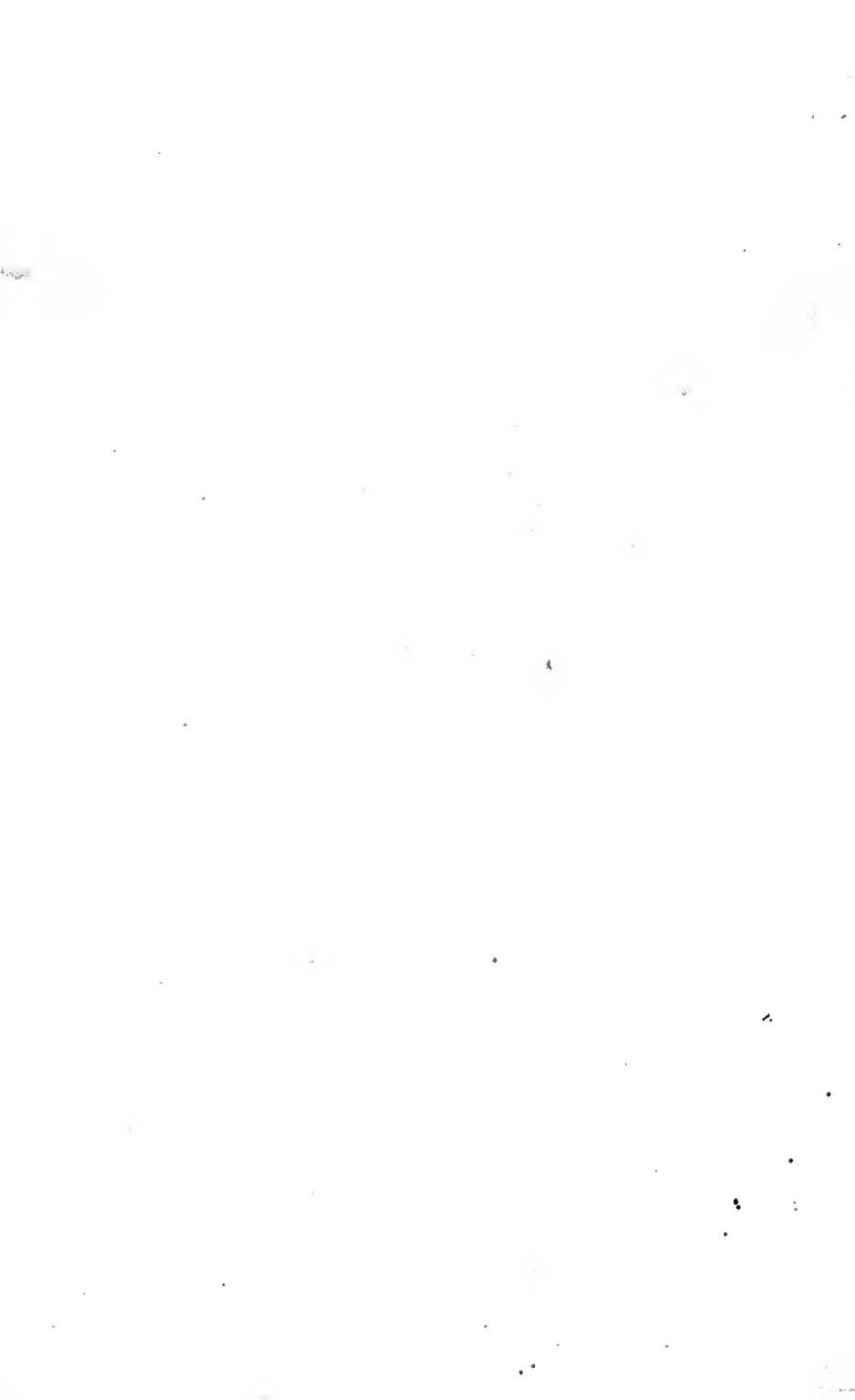
PRINCETON · NEW JERSEY



PRESENTED BY

A. G. Cameron, Ph.D.

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APPLICATION

OF

SAMUEL D. BRADFORD AND OTHERS,

TO SET OFF

WARDS SIX, SEVEN AND EIGHT,

OF THE

CITY OF ROXBURY,

AS A

SEPARATE AGRICULTURAL TOWN.



S P E E C H

OF

HON. RUFUS CHOATE,

BEFORE THE

Joint Legislative Committee on Towns,

BOSTON, APRIL 4, 1851.

Phonographic Report by Dr. James W. Stone.

BOSTON:

GEORGE C. RAND & COMPANY, 3 CORNHILL.

1851.

HON. MR. BASSETT, CHAIRMAN OF COMMITTEE

RUFUS CHOATE,
ARTHUR W. AUSTIN, } *for the Petitioners.*

DAVID A. SIMMONS, }
JOHN J. CLARK, } *for the Remonstrants.*

S P E E C H .

I DO not propose, Mr. Chairman and gentlemen, of course, at this time of night, to attempt to follow my learned brother on behalf of the city lower of Roxbury, over the whole of the ground which he has traversed with so much rapidity and with so much skill; nor do I mean, if I can possibly help it, to advert at all to any thing like a ten thousandth portion of that irrelevant and unimportant matter which, in the course of a somewhat protracted and excited examination before this Committee, has been somewhat necessarily, like chaff among the wheat, forced upon your attention. The merits of this case seem to me to be within the narrowest compass. I am sure that if I had ever so much time to be tedious, I should better serve my clients and the cause I advocate, as I am also confident that I shall better please the Committee, by confining myself to those merits. To them I advance without preface, and to them I mean to adhere to the best of my ability without digression.

I think, gentlemen, that it must be admitted by all of you, at least, by all the members of the Legislature, at least, although my learned brother has been pleased to take a somewhat different view of the case, that the general character of the petition which is presented to you, the grounds on which it proceeds, the objects it aims at, and the source it comes from, are such as entitle it, at least, to the kindest and most parental consideration of the Legislature. A large body of petitioners,

your fellow citizens, and, in a certain legal sense, I may say your constituents, also, composing, as I may also substantially describe them, the unanimous population and sentiment of a very large territory, a community and territory large enough, unanimous enough, and rich enough in all moral and all material traits and qualifications to make up a town of the first class, equal to every municipal duty and every municipal respectability, larger, permit me to say in advance, than two hundred and fifty out of the three hundred and twenty-two towns that make up the sweet and cheerful surface of Massachusetts to-day ; such a body of petitioners and such an area as this are before you, seeking to-night for a larger measure and a better form of self-government than it is now their lot to enjoy.

The petitioners are here, gentlemen, if you will give me leave to remind you, not seeking for railroad charters, or mutual insurance charters, or for the loan of money or of credit from the State ; but I hope I shall provoke no man's smile when I say, seeking for a better liberty under the law. They are here with no revolutionary purpose, to throw off all social ties ; but asking only the inestimable privilege of being allowed to form with one another sweeter civil and social ties, to the end that they may the better perform all social and all civil duties. They are not here seeking the lion's share, or any share of the pauper tax, or of any of the cemeteries to disturb the repose of the dead ; but are seeking only a better and a completer government of themselves.

They are here, not from any fear of any future tax from any foreign or a native pauper population, not from any fear of any thing ; but they are here under a present and practical feeling, gentlemen, that a community in lower Roxbury, of native citizens, undoubtedly respectable in its general constitution, of very great worth in its general character, but a community distinct from themselves, distinct by local position, distinct by industrial pursuits, distinct by modes of municipal life, distinct somewhat by sympathies alienated, I will not say secured — a strong feeling that such a community should have a distinct government from their own. I say that this community is this day their master. Good government, or bad government, as my learned brother chooses to represent it, it is the government of another ; and my clients seek to escape

from it, Mr. Chairman and gentlemen, not by rushing into any revolutionary form of policy, but by setting up that old and endeared form which, beginning at the rock beginning on the cape, transplanted from the cabin of the Mayflower, a New England man takes with him as he takes his Bible or his constitution, whether he ascends the waters of the Mississippi or of the Columbia — that ancient form beneath which alone the agricultural mind breathes freely and trains itself perfectly to the duties of citizenship ; I mean the old fashioned form of town government in town meeting. These are the general features of the causes which bring the town of Roxbury here to-day. I am quite sure, in advance, that such a case from such a source, proceeding on such grounds, and reaching to such results, will be treated as all are treated who come to you, parentally, considerately and kindly.

It has seemed to me, give me leave to say, and I have felt it with great force during my learned brother's argument, that it is all but indispensable, before we take one single step towards an attempt to determine this case, that we should begin, if we can, by doing what my learned friends on the other side have not lifted a finger to try to do ; and that is, if possible, to settle some standard, some rule, some formula, some criterion, if language is equal to it, to determine whether a petitioning population, seeking to be a town by themselves, have made out a right to be a town. What shall be the standard of determination, Mr. Chairman ? I submit to you and to your associates that your minds struggle for a rule. What shall it be ?

Now it is very easy indeed, examples enough have been given this afternoon, for us to fill our mouths with phrases, which seem to mean something, and which do mean something, but which do not throw a ray of light upon this question which is so important.

The city of Roxbury has said, in a document to which I shall take occasion to refer hereafter more particularly, that the multiplication of small towns is not to be encouraged. But that does not reach our case. To determine that moral necessity on which a Legislature may act, and in a given case whether the petitioners have brought themselves up to our standard, is our endeavor.

It has been said that an ancient town or city is respectable in a general

sense, and that, therefore, no change ought to be hazarded unless a strong case is made out. This may be true ; but it does not help to solve the problem before you, because it may be true that so large an area may be so incommoded and fail to participate in all the prosperity to which it might attain alone, that separation would be better for it and better for both, the ancientness of the town or city to the contrary, notwithstanding. It is very easy, as we have seen this afternoon, to be pathetic on the antiquity of a given corporate existence, and on the importance of antiquity, which should induce us to desire to keep the different portions together. But we, every one of us, see that after all progress is every thing ; that it is not the traceability of towns or the exterior of towns which is important, but the feelings and sentiments of the men and women, the living masses who make them up ; that after all the eternal law of utility and fitness may command to re-construct and re-arrange that organization to-day, which has answered its purpose, as my brother has said, for 220 years. Towns, gentlemen, like the Sabbath, are made for man, and not man for towns or for the Sabbath. And, therefore, I repeat it, that if the interest or the convenience of the men who compose the town demands the change, that if the predominance of the good over the evil is so great as to be important, then we change the organization of the town or city as a matter of course, just as we change every thing else.

It is very easy to say that the new-born zeal of a new comer is not to be indulged when he asks for a separation. But the question still comes, what, how many, who, shall be considered as representing the opinion of the public in this case ; and whether it is a good reason, or whether it is a sound discernment of public interest, that has brought this case before you.

We seek for a formula then, and I hope the Committee will indulge me for a moment in determining that ; for when that is settled, the case is argued. We feel the necessity of a standard for the establishment of such a town as this petition asks. What, then, shall this formula be ?

I have the honor, with a good deal of diffidence, but after a good deal of reflection, and at last with a good deal of reasonable reliance that it will not be unsatisfactory in the judgment of the Committee, to state

that the formula for such a standard, or the criterion under the policy of Massachusetts, is substantially this : When the area and its inhabitants seeking separation from another town or city, and an incorporation as a new one, are sufficiently large and numerous to constitute of themselves a new town of respectable dimensions, and population and ability, above the average of the towns of the Commonwealth, above the class of what would be called inconsiderable and unimportant, as small towns, and yet leave the parent town not absorbed by annexation with which these petitioners have nothing to do, but will leave it in a municipal life of average dimensions, populousness and ability ; then if the public policy shall in this behalf be satisfactory, I mean to say, not the making of two inconsiderable towns, but of two large ones, which shall be above the average ; then, sir, if the welfare of petitioners who apply for the incorporation will be promoted in a considerable and appreciable degree by a separation, so much promoted that this will exceed the inconvenience and evil, if any, occasioned to the residue, so that upon the whole there will be an increase of the accommodations and convenience and probable prosperity of the original whole as a mass, the separation is proper to be made. I pray you to allow me by this fading twilight to pause for a moment upon this criterion.

My first condition is, that neither the new town nor the residuary old one shall be reduced to insignificance ; but both shall remain and both shall be, for the demands of public policy, above the average of corporate and municipal respectability, if we are able to determine where that average shall fall. That is my first condition.

I have stated a principle very far less favorable to incorporation than the legislative action of the Commonwealth would warrant me to take. I do not find, in looking over the action of the Massachusetts Legislature, or the less agreeable reading of its special laws, that they have ever made it a condition to the establishment of new towns that the area and population shall be as much as I present, viz : that there shall be a fair average of dimensions] and populousness. I find no such average established.

Sir, areas of territory very far below this have again and again been made into towns. And it is pleasant to remember that it is within the

experience of many of us that they have run courses of prosperity, which have brilliantly illustrated the benefit of the policy which has been followed. You know that you have made towns of eight hundred inhabitants, of ten hundred inhabitants, of eleven, of twelve, of thirteen hundred inhabitants, and they have all operated well, though they fall very much below the standard to which I would bind myself.

Your predecessors have established that there is nothing in the functions of a town, nothing in the place which it holds under our social system which inflexibly requires it to be of certain numbers; and they have said again and again that 800 or 1,000 human beings may constitute a mass of the community of convenience or inconvenience fit for the Legislature to regard. Still, gentlemen, in order not unnecessarily to bring an action in which my clients have such deep interest, fairly against any public policy to which any person may be attached, I am disposed to agree in the general that small corporations shall not be multiplied. I am willing to concede that the general policy would be against it.

Therefore, I have the honor to put it as my first criterion, that both the towns which are to result from the separation shall be in the class we call quite respectable, above the average of respectability according to the standard in the Commonwealth. When such may be the case, when we may create and leave two towns respectable, populous, able in material and moral elements of greatness, separation may very properly take place. Then I come to my next position.

I submit to you, then, that if it turns out in point of proof that it will greatly and appreciably promote the interests and conditions, and soothe the feelings, greatly and appreciably lessen the inconveniences, incommodities and municipal life of the petitioning area—if it will do all this in so great a degree as to counterbalance any inconvenience in the residue, so that it shall turn out to be for them better than before, or no worse than before—I respectfully submit to you that we entitle ourselves to the legislative favor of the Committee. I can find no other standard than this.

The Constitution in so many terms makes it, I will not say your duty, but your privilege to pass a good and wholesome law; such a law as

this will be, if I bring my case up to the conditions of my own standard and criterion, a good and a wholesome law. If so, to no other part of Massachusetts would it do a particle of harm. My criterion says, the character of the town created and that of the town left, are to be equal to every duty which the Commonwealth requires of towns. Then if it turns out, when we apply the criterion to the evidence, that this separation benefits the new Roxbury as a whole, or if it benefits that part of Roxbury which is to be separated, so much, or appreciably, as to counterbalance the incommmodity suffered by the rest: so that, upon the whole, there has been an appreciable addition to the entire mass of convenience, and a diminution of the mass of inconvenience, then, I do respectfully pray to know, why it is not a clear case for the legislative action of the Committee favorable to the petition.

My learned brother having discussed no standard of his own, I can of course have no reply to it. Some allusion was made, not very satisfactory, to the report of the city of Roxbury. But as far as I understand it, it may be considered as substantially conforming to my own view, and with an earnest petition to be forgiven for repeating the criterion, I shall have argued this case when I submit to you that we bring it up to every element which enters into that criterion.

In the first place, I submit that the first condition is satisfactory. Old Roxbury and New Roxbury will remain of the class of respectable municipal corporations. The new one will have some seven thousand, or seventy-five hundred acres, according as you draw the line, and some three thousand, or thirty-three hundred inhabitants, also, according as you draw the line. And that will be purely agricultural. And what sort of a town is that, under the municipal system of Massachusetts?

You are aware that there are 322 towns in all; and that of them all, 250 have less than 3000 inhabitants to-day. The new town, which we ask you to establish to-day, will therefore be larger than three-fourths or four-fifths of the towns which already exist, leaving but one-fourth or one-fifth of the towns and cities of the Commonwealth with a greater population than it will have. Or, you may measure it by another standard. If you will turn back to our earliest legislation upon this subject, you will find that a population of 3,300 inhabitants is the largest known

to the common educational regulations of the towns ; inasmuch as a town above that population was formerly obliged to have a grammar school.

Annexation, gentlemen! We meddle with no annexation. And it seems to me that my brother's argument was rather irregular, when he, before that important policy had an opportunity to be heard before you, went wide of his own retainer to speak of such a subject as that. For my part, I mean to leave old Roxbury where she has been. There will be an area of from 3300 to 3800 acres, and about 15000 inhabitants ; three thousand more than enough, under the Constitution, to constitute a city ; leaving it the largest town or city, to-day, in the State, but just seven. I respectfully present it to you, gentlemen, that my first condition of public policy is amply and beautifully satisfied by the facts.

To say that we cleave down an ancient and a noble whole into insignificance, is to say what is not true. To say that we unnecessarily multiply corporations, is to say what is not true. A town is presented with a corporate existence ; two blades of grass grow where one grew before ; and I call that pretty good farming, gentlemen, morally, politically, rurally. I trust that the political conditions of my standard are entirely satisfied.

I now have the honor to submit that we bring ourselves altogether within the other branch of my conditions, having satisfied you that we do not destroy a great corporation to make two insignificant corporations. I now am ready to advance to the question of the convenience and inconvenience, the good and the evil, of the change itself, to the mass now of Roxbury. There is no public policy against us. If I can show you, looking now on this picture and then on that, that this proposed change is beneficial, you will commend yourselves by giving us a favorable report, I do not say to our hearts or to our gratitude, or that we shall reward you with our votes, (for, alas, we are no constituents of yours, save in that enlarged sense in which we are constituents of all the representatives of Massachusetts,) but to your own sense of justice, for conferring a lasting public benefit upon the community. Passing from strong feeling, strong desire, cherished expectation, and fixed purpose, to the field of calm reason, we shall endeavor to satisfy you that good can be done. If I cannot show you, not that some evil will not be done,

but that the good will outweigh, appreciably and certainly, all the evil that there is or can be, then dismiss us from your presence. But if I shall show you a reasonable case, remember that you do not hold us to a mathematical demonstration, and that you will not turn away from us because we cannot offer you certainty; but if we show you that a great opportunity is afforded, according to a moral probability, to do a real good, if you do it, I apprehend that you do your duty.

In the first place, what evil shall we do to old Roxbury? Give me a tangible evil which we may look in the face. In the first place, as I have had the honor to say, you leave her large, populous, and respectable in point of class; it leaves her, in area, larger than Boston and South Boston both together, by a thousand acres. The area of old Roxbury will be 3,300 acres, according to the lowest estimate. Boston contains 1,419 acres, and South Boston 665 — less by 1000 than the Roxbury that is left. It leaves old Roxbury seven times as large as Charlestown, that holds the tomb of the martyrs and the monument sacred to our liberty; nearly as large as Cambridge; and for inhabitants it leaves lower Roxbury 15,000.

Mr. Simmons. No.

Mr. Choate. If 3,300 inhabitants, which is the largest number proposed, be taken from old Roxbury, you leave her 14,930 inhabitants; and if, as Burke expresses it, “while they dispute the exaggeration ends,” the population will be 15,000 before this case is ended. Of the 322 towns in the Commonwealth, seven only are as large as Roxbury will be.

Mr. Simmons. You will make a long session of it.

Mr. Choate. A long sitting? The sitting of the Committee will terminate to-night.

Mr. Simmons. Session!

Mr. Choate. The session, I hope, will close with the grant of this prayer. Truly, if any man may feel a just pride that he lives and exerts influence municipally, in a large corporation rather than in a small one; that he hails from a great town rather than from a little town; surely, *surely*, every man in old Roxbury will be left in the indulgence of that respectable pride. If there is anything of value and honor in a

corporate power, pertaining to a large town, we leave all that, whatsoever it is, for substance unimpaired, to lower Roxbury. Seven towns only in Massachusetts will be larger. And I am sure, Mr. Chairman, that that will be regarded as enough.

In the second place — I am still in pursuit of the evils that we do to lower Roxbury, and when I run over this array of evil I hope that I shall fall into no flippant habit of inconsideration, as my thoughts shall be at the disposal of yourselves and my clients — in the next place, is there any feeling against this in lower Roxbury so great, that to disregard, or slight, or wound it, would be of itself undesirable, would be of itself an evil proper for you to estimate ?

Now I am free to say that I do not think myself that one deep, unanimous feeling of a region of country is to be held for nothing upon such a question as this. I mean, by and by, with great deference, respectfully to submit to you that the desire, so deep, so vehement, so ancient, in that region of the town which I have the honor to represent ; that feeling, so keen, so genuine, so ancient, so increasing, in favor of this change, affords of itself, not merely very high evidence that the subject who entertains that feeling will have his interest promoted by the change, but I mean respectfully to submit to you, notwithstanding a sneer, in advance of my learned brother, that to diffuse that happiness, to furnish that contentment, to afford that satisfaction alone, which will result from granting the prayer of these petitioners, will come within the field of a proper legislative policy.

I ask you whether there is any thing like a deep feeling in lower Roxbury, to be weighed for a moment with the feeling in Western Roxbury, which actuates the petitioners to-day. Now I respectfully submit that there is a total failure to show that there is any thing at all of feeling in the five lower wards, among the men of character and respectability, equal to that in West Roxbury. I mean to submit to you that there is nothing in evidence in this case to warrant the Committee to believe that there is a particle of diffused, deep, strong, general feeling, so unjust, and I will add so senseless, as to lead them to a strong opposition to such a measure as this.

Mr. Chairman, there is a vote of the City Council to employ counsel,

and that is the whole of it. That is the whole evidence that the mass of the men of weight, and character, and respectability, even in that part of Roxbury, entertain a desire in the least degree of strength to hold us, soothing us with a few honied words of compliment — to hold us so manifestly against our rights and against our will. Is there any remonstrance against our petition? We produce to you 420 petitioners out of the 450 voters of upper Roxbury. And they show you but 486 remonstrants out of 2000 voters. But we have obtained petitioners from other quarters; so that, you see, with less than 500 voters, we bring forward, with the foreign aid which we obtain, in all, 670 who ask for this division; while they, with 2000 voters, produce only 486 remonstrants in all.

Mr. Simmons. No!

Mr. Choate. I believe I have the numbers right. I received them from the Chairman of the Committee. Glance at the witnesses. Has it occurred to you that of the eight witnesses they have produced, seven hold offices in lower Roxbury to-day; every man of them, except Mr. Copeland, who is distressed to think that there is such a delusion in the community in favor of town governments? Of these seven gentlemen holding office, five are this day in the receipt of very considerable salaries from the city Government. I dare say, and it costs me nothing to say so, that every man of them is respectable. But when we consider how much opinions, still more mere feelings, are swayed and colored by our interests, when we consider how perfectly inevitable it is that when a man is feed by an organization, whatever it be, he thinks that organization ought to exist, I put it to you upon your intelligence, that you will regard this testimony of salaried men as utterly worthless, to prove that the generous feeling of Roxbury is in favor of a measure so unjust and oppressive as this.

Gentlemen, I might turn to the witnesses who have testified, and to their salaries; while running them over it would be easy to make a merriment of what is, in reality, a grave matter. It would seem, *to be sure*, as if they had testified “all for love, and a very little for the bottle.” Methinks I hear the shout, “Great is Diana of the Ephesians;” and then, in an undertone, “*for by this craft we live.*”

Mr. Dudley, one of their witnesses, receives a salary of \$1100 per annum, and he loves us very much indeed. Mr. Howe, it seems, however, loves us only at the rate of \$175 a year. Three more of them obtain salaries of various amounts, and love us in proportion ; while two others carry it no further than to be members of the common council. I submit to you that, upon the question of the annexation of Canada to the United States, it would be just as proper to call the Governor General of that Province, as he leaves the Queen, with his salary of £10,000 sterling annually, to give testimony upon the sentiments of the inhabitants, concerning the project, as it is to call these salaried gentlemen here to testify concerning the sentiments of the people of Roxbury on this question. No ! There is no real feeling there against our petition, trust me upon it. There are individuals who feel strongly, there is an organization which can create and diffuse a pretty powerful sentiment within a limited circle. Yet there are, even with the aid of that influence, but 486 out of 2000 voters who can be galvanized into the slightest degree of activity against such an application as this.

We have petitioners, together with aid from other places, amounting in all to about six hundred and eighty-six, to speak for a population of three thousand. They have four hundred and eighty, out of a population of fifteen thousand. There is not a particle of evidence of Roxbury's opinions, beyond this, to submit to you ; and although I have no fee from the city council of lower Roxbury, I am glad to have the opportunity to rescue her from the charge of having such a senseless opposition to our desire, which, if it could be accomplished, while it makes us rich, instead of making them poor indeed, shall leave them to grow with our growth, and share in our prosperity, and, like the United States and the mother country, we can both bless the day when separation occurs. We wound, therefore, no man's feelings, and no corporate feeling, by the change we seek.

I have now respectfully to ask, whether or not there is a particle of well grounded reason to believe that we do that respectable residuum of the city any thing like a real evil, on which you can properly rely when we come, by-and-by, to ask you, if we have it to ask you at all, on what grounds this prayer was rejected.

We come next to the consideration of a considerable difficulty. My learned brother stated his argument clearly, although I am sorry to say that I missed any thing like a precise statement of the evils of the case. I come now to ask whether we leave any evil at all. I do not know as we shall do evil. Animated life we shall take, to be sure, just as we do when we take ourselves home to-night. We can perform no duty; we can pass no place where we do not indirectly, unconsciously perhaps, fall somewhat short of the whole good we would wish to do, and fall something short in the prevention of evil we might wish to avoid.

My first suggestion, with which I am about to enter upon the topic a little more in detail, is, that it is unconceivable to begin with, that if there is any evil which any man of sense can come before you to present, who has not become enlisted by a long sharing from the city treasury, or a connection with the city government—I say it is incredible that the fathers of all that town should be so profoundly asleep as we find them to-day. In all their 15,000 inhabitants, but 486 can be brought up to the ceremony of a remonstrance; and of all that 15,000, many of them men of character and of property, many of them justly, at different times, the fathers of the town—of all those, eight only have presented themselves before you, and seven of the eight hold office under the government. I submit that that must have a great deal of weight in the determination of the question.

But let us go to the evils. I have found it infinitely difficult, and think that you have yourselves, to lay fingers, out of all the heads my learned brother has been able to afford us, upon any thing like a clear and precise list of the evils which old Roxbury may suffer. Be they what they will, and come they in what shape they may,—what are the evils which old Roxbury may receive? One of them touches us in our most sacred sensibilities. Of that I will speak before I am done. But I am speaking now of corporate interests. Of what are they afraid? There is an apprehension that the burden of lower Roxbury will be somewhat increased by the separation of the upper regions. That, I understand, is the general difficulty. It is put in various ways. They talk of the Irish population. But as I understand it, at last, there is

some fear that the burdens of lower Roxbury will be enhanced by the separation. If they should be, I shall have the honor, not to pile up, but, to hold up, the mountain preponderance of benefit, on the other side, to counterbalance it.

But I intend to submit to you that it is mere cant and declamation, not in the hands of my learned brother, but in the hands of those whom he represents, and that there is not a particle of solid and intelligent reason to believe that the burdens of that Corporation will be enhanced, in proportion to their numbers, one seven thousandth part of a farthing, by the separation we so much desire.

The taxes may be divided into two classes. In the first place, there are benefits for which the town voluntarily incurs taxation; such are highways, schools, streets, lights, and the rest. As to all these, the town has discretion, and the town is, therefore, a volunteer. It is benefitted by its own taxation. The second class is composed, I agree, of unmitigated burdens. It includes principally the support of the poor. They are evils without benefit.

Let us take these two classes by themselves. As to all that first class, in which the Corporation is substantially a volunteer, all I have to say is this: if it shall turn out that, after this separation, lower Roxbury pays more than it pays to-day, then it proves nothing more than this—that we are now paying in upper Roxbury more than our proportion: and to that extent there is an injustice done. And if to remedy that is an evil, it is, in the language of a great scholar and poet, to make evil out good.

“Evil, be thou my good!”

If there be the same amount of lights, police, streets, and schools as before, and they have to pay more for them, it proves that we are keeping their peace, lighting their streets, paving their highways, schooling their scholars, and that we are really taxed this day, for the benefit of another.

I do not know as I shall be able, by this imperfect light, to read my figures: but so it is, that the city of Roxbury extracted from upper Roxbury, in a single year, some \$5000 more than they returned.

Mr. Clark. Where is the evidence?

Mr. Choate. The whole tax is \$23,000, and they expended upon us \$18,000.

Mr. Simmons. You take a single year.

Mr. Choate. You have taken the best part of the afternoon, and of the minds of the Committee. Permit me, now, to receive at least their lingering and exhausted attention. I stated that they took \$5000 from us in a single year, and not in ten years.

Taxes are paid for two things—for benefits or for mere burdens. And what I say is, that if, after the separation, you continue to have the same benefits with more burdens, it is because we are paying for your burdens to-day.

But there is another class of burdens, and I meet them upon that class, for I saw that, by the way in which the subject was presented, they were making an unjust impression upon their hearers. I refer to the class from which the town derives no benefit, but which are only unmitigated burdens, and that is the foreign pauper population. They are afraid that they will have more Irish paupers to pay for if they are separated than if we remain together. I beg leave to answer that, and I will withdraw before 9 o'clock to-night if I do not satisfy you, if I do not prove it even to the signers of the lower Roxbury petition, among whom I recognize a worthy gentleman present to-night, and if I cannot satisfy every reasonable person that our claim, so far as regards this point, is a just one, and that their objection is untenable.

I have no prejudices to encounter in those I am addressing, inasmuch as I am speaking to the Legislature, who are interested only so far as the public good demands.

Now I have the honor to call your attention to this subject. I say the remonstrants have failed to prove that it is any thing more than contingency and speculation from beginning to end, and that there is nothing at all like a reasonable ground of belief; I think we ought to have this at least when our hearts are throbbing with a reasonable desire; I say that there is no reasonable ground of belief that the burden will be increased on this part of Roxbury one particle more than it will on us. To say that, taking the entire mass which is now in both Roxburys, the

chances are that more will live to be paupers there than among us is to assert what cannot be proved. Who knows any thing about it? Who can say on the other hand that of that great tide of emigration with which the Old World is pouring itself upon us, that in the five and twenty years to come more of them will stop and remain in lower Roxbury than in upper? Who does not say that the person who makes such a statement has deserted the halls of legislation, and turned into a fortune teller and a gambler? He speculates on that of which all must be ignorant. Here is the honest Englishman, the pious Scotchman, the worthy German, the hardy Irishman, the gay Frenchman the happiest of them all, who are coming to this country by thousands; and this Legislature is to refuse us a corporation upon the learned ground that my learned friends are all but certain, that is all who have salaries, and offices, and fees, that more will light in their city than in our town. Their poor-house, they say, is better than our's; as if the lightning of God might not destroy it, or the accident of fire might not burn it down; as if our's might not be built better than their's; as if foreigners were coming to this country to enter a good poor-house.

Who will tell me when you look upon the two territories, when you consider that our gardens are to be laid out and our houses to be constructed, when these beauties here are to be made to present themselves all marriageable to the sun, that they will not attract and pay the foreigner, a thousand to one, nay even over and above a thousand to one, more than any attractions this overgrown and noisome city of lower Roxbury will present. I would not abuse my clients, as my friend has done his, by implication. I entreat you to bear with me in considering whether or not it be a sheer conjecture, and whether there was any thing ever presented in the womb of the future to the mind of man, which is more of a fancy than that. There is not time and there is no need to break this butterfly upon a wheel. I find this business done very much to my hands in a very able document put forth by the city of Roxbury, before my friends had got excited in the progress of this very able investigation.

I have the honor to submit to you that there is no reason to say that this foreign population is to be more attracted there than here, or

that it will remain there. I perceive that I must hurry forward. I shall be glad to pass from these evils which are slight, to the great and important benefits to be derived from the separation.

You will perceive that this objection of their's concerning increased expenditure for paupers is based upon the idea that the Irish are to settle below. I beg to call your attention to a report made by the city government, drawn with great care and reported to each branch thereof, and printed by them. I beg leave to refer to page 5th of that report to see if I am not more than sustained in the position which I take upon the uncertainty and shadowy character of the objection which I am answering. They are addressing themselves to certain supposed reasons for division.

“A fourth reason is found in the supposition that if we were divided, nearly the whole support of the poor would fall upon the five lower wards. *We hold this to be a fallacy.*” I thought that was the very difficulty. “That population out of which the largest amount of pauperism grows, *has already extended to*, and is increasing rapidly in the western section.” I thought an Irishman could no more get up upon the plains than a witch could cross a running stream! That population “is increasing rapidly in the western section, and we have no doubt *but that in a very short time they will have their full share of it.*” “We have no doubt” of this, they say. And “we” are Roxbury, the fathers of the town, sitting under the forms of the city government which are so sure to produce truth and certainty. “We have no doubt but that in a very short time they will have their full share of it.”

That is the argument against their excited counsel. I will not say that I know how it will be. There is such a thing as a wise and learned ignorance. And I think that is more important in this case than the dogmatism of which you see some example has been set us. I should think that, inasmuch as the land in West Roxbury is all unoccupied, it would be the open New World as a general thing to attract the foreigner who comes to a better liberty and a happier home. That is every tangible objection they have. They love us much. Their salaries show that. There is nothing like embittered feeling in their action. They

are afraid their pauper tax will be increased. Their own clients do not believe it upon the testimony of their printed pamphlet.

I know no other evil. But one has been adverted to in such strong terms to me as to excite our own sympathies, and so strong that I cannot doubt that in every thing he said my brother was sincere. But in taking my leave of them, permit me to submit that the whole of this objection is altogether unfounded, exaggerated and overstrained in its application to this deliberation to-night. My learned brother alludes to the cemetery. His allusion to that shows that he either imperfectly comprehends or he unsatisfactorily and incompletely reciprocates what I thought was the admirable manner in which my learned friend discussed that part of the case. It is not a matter which we can discuss. It should be transferred to the region of feeling. I would commit it to the matronage of Roxbury. I would commit it to the bereaved of lower Roxbury; to the mourner, who is the only inhabitant of the cemetery at last. And I say that no affection of the heart, no prejudice, no feeling, nothing so holy as that cemetery, or the sentiments connected with it, shall be neglected in order to accomplish the object of our petition. This cemetery shall be yielded to them, if you will permit me to say so, free of burdens. We shall only be too glad to keep the thronged passageways to it accessible. That place of the dead, that resting place of quiet, shall be guarded for them. The bones of both the Roxburys shall repose there till the sea gives up its dead. To whom of the dead or the living does it signify within what line of corporate territory it remains. The name shall be of Roxbury; the jurisdiction shall be in Roxbury; the property shall be in Roxbury; the grounds shall be hallowed and appropriated to Roxbury, if they please to have it so, alone. And to the mourner how little it imports, since he cannot hold the dear departed object any longer in his arms, or bury him in his church, or in his garden, but must send him to that old home — how little he regards the corporate name. Consecration, and purity, and peace, he desires; and he shall have them, in the bosom of a kindred, a Christian and a civilized community. If there were not sentiments in my own bosom which made me feel that my brother could not have said any thing on this subject without feeling, I should have believed that he

could not consider *that* any objection to the grant of our petition. My learned brother who opened did not present this as an objection. He forgot to allude to the whole subject. Do not let any thing connected with this sacred subject interrupt our proceedings. We do Roxbury, therefore, no harm, in her pulse or in her heart. No harm! On the contrary, as I am about to take my leave of that subject, I will submit to you, that, unless experience is a liar, separate us, and she shall grow by our growth, and strengthen with our strength. In this great growth both parties shall gain by the separation. Is not Charlestown an evidence of this? In 1840, with Somerville, she had but 9000 inhabitants; while now, without Somerville, she has 15,000 inhabitants; while Somerville has increased from 1,300 to 3,100 or 3,300 inhabitants. Separate them, reduce the time of doing business for the public, relieve each man from mismanaging what he does not understand, and confine every man to the administration of his own affairs, and I believe each ought to be a gainer. And will not lower Roxbury be the gainer? Will my brother allow me to remind you that if the prayer of this petition should be granted, and that if we enter into any thing like a ten thousandth part of the prosperity that we hope for, that if we shall behold on this or that beautiful spot, a house or a cluster of houses, does not lower Roxbury know that every cask of lime and every foot of timber comes to her wharves, and we take it from her hands? I present it to you, that the benefit is as obviously hers, in the employment of her own wharves to bring the necessary articles for the improvement of our land, as it was for England a benefit if she had originally known that it was her true policy to give the colonies their freedom, and make them a market.

I have done with the evils, and I say that I find no evil. Public policy we satisfy, because we simply give to the State two daughters for one, and "each fairer than the other;" the daughter fairer than the fair mother herself—two for one:

"Matre pulchra, filia pulchrior."

Not either unable to go alone, but each of them up to the standard, and beyond the average standard, of municipal respectability and municipal duty. Then we do no evil.

Now, I entreat your attention (though there will be no time to expand the thought) to the consideration whether, among the millions that shall flow to us from the eastern continent, some one or two more may stay below, so that there may be a slight increase of business to lower Roxbury. Put against that, the overwhelming series of good results, about which there can be no uncertainty, which you will assuredly do to us.

In the first place, the grant of this prayer will gratify and appease the desire of many years, pervading all classes in the upper community, and which has gained strength by the experience of every day. That is the first good that you will do ; and you may live much longer, and do much more good, and yet do nothing that will gladden so many hearts, and fill full so many reasonable hopes, as that single act. Now, sir, of the unanimity and strength of feeling upon this subject, in West Roxbury, there cannot, of course, be a particle of doubt. Of the 450 voters, less or more, in the three upper wards, 420 are here to-night. Of the 120 voters, in ward No. 8, 111 are here to-night. There may be three or four, throughout the whole three upper wards, who dissent. They are very respectable individuals ; but there are not enough of them to make a good corporal's guard. But the great fact upon the front of this case is, that here is an unprecedented numerical unanimity and an intensity of feeling, of which, when the hearing began, you could form little idea, although the progress of the inquiry has enabled you in part to apprehend it. Even my learned brother recognizes it. The Committee say, in the private report to which I have alluded :—“ It is the almost unanimous wish of the people in the westerly section, with or without good reason, to be set off, and left to manage their own affairs in their own way. There is more weight in this than in all the other reasons combined, *and we are very sorry that it exists.*”

Glad or sorry, gentlemen, here they are. Ward 8, once opposed to a division, experience, the guide of life, brings here to-night, in the proportion of 111 out of 120. The very same experience has but confirmed the impressions of all the rest. All parties are here to-night. I see no Whigs, or Democrats, or Free-soilers ; but I see only the inhabitants of West Roxbury, and I see them all.

Add to this, that, of the 2000 voters below, only 460 or 470 remonstrate ; that some 200 more petition ; that some 700 ask for annexation. Add to that, that we have proved that one and another of their remonstrants had simply said that the time for separation had not quite come ; that they thought it would soon take place, but that they thought the period for it had not yet quite ripened. Bring also to bear the state of public opinion in that part of Roxbury which we represent.

Now I put it in the first place, gentlemen, (although I remember that my learned brother went out of his way to sneer in advance,) that you should satisfy such a demand as to gratify the unanimous wishes of a population over such an area — wishes not new-born, not short-lived, not for any thing unjust or inexpedient, not, as I have said, for the grant of a railroad charter, or the incorporation of an insurance company, or for the loan of the credit of the State ; not for corruptible things like silver and gold ; but for the right of self-government. I respectfully submit to you, (I hope I shall not weary you by returning again and again to a sentiment so dear to myself,) that to gratify such a unanimous desire as this is, in itself and of itself fairly within the proper aim and policy of the Legislature, you will, sir, allay exasperation and irritation, you give men's minds back again to business and to the offices of good neighborhood ; you re-open the veins of good feeling ; you strengthen government, and you attach men to government, by showing them how filial and how just it is ; every burden is lightened and every duty is sweetened by the grant of such a prayer as this.

I am sure you will hardly suspect me, at this time of night, of a desire to declaim ; but it is hardly extravagant to say that this bill which you are asked to pass will be received like another Declaration of Independence. The ringing of bells and the firing of bonfires will exhibit the feeling that exists. This strength and unanimity of feeling I regard as very high evidence that the interests of these persons will be promoted by this act ; it is evidence that there are evils which they feel, and that the separation will be the remedy.

Now, gentlemen, that it was an extremely intelligent community represented by our witnesses, nobody will doubt. Were you not struck — I was, and proud, too, — to remark a body of persons, of such

apparent sense, and sobriety, and character, as have come here to represent the judgment of the petitioning district? I believe I do not go out of the way to present any weak flattery of my clients' witnesses. I am sure you will regard them, if they are a fair specimen of West Roxbury, as proving that it is a community eminently competent to judge of its own municipal wants, when such men as my brother Austin, Messrs. Curtis, Bradford, Williams, Brown, Weld, Cass, and half a dozen others, tell you, after the most thorough investigation of the subject, after the fullest and the freest interchange of thought, that, even if their taxes were increased, they would be paid more by the separation, because the burden would be lightened and the boon would be sweetened by the satisfaction of self-government. When they tell you that no burden which the Legislature should give them would operate to induce them to refuse the charter. I do submit that you have the highest evidence that there are great evils that this bill will remedy, and that they have large interests to be benefitted by the change. I do not wish to press this argument too far upon the consideration of the Committee; and perhaps I would better pass to the consideration of the facts themselves. But the presumption is that a wide-spread discontent is well grounded. And I think it ought to serve—instead of entering into a history of the city government—that it ought to serve for proof that these gentlemen who have lived under this action, who have summered it and wintered it, who represent a community that concurs that they have felt it practically to work unfavorably to them—I trust that you will receive that as proof that they will derive inestimable benefits from this proposed separation.

I leave this with the consideration that this unanimity is evidence itself that their interests will be promoted by the grant of the power; and although I had some considerations why I thought it of great weight as mere evidence, I believe that I shall better consult the interests of my clients—I know I shall consult the feelings of the Committee—if I pass at once to the consideration of the other part of the case. If the Committee will indulge me, I will consult a moment with my brother. If we can have a recess, for a few minutes, I shall be much gratified.

Mr. Choate continues. Of course, gentlemen, as I was just having the honor to say, the petitioners do not rely upon the strength or unanimity of their own wishes in their behalf, as evidence of the evils they feel, and the relief they crave. They undertake to point those evils out. And they find, to begin with, the source of them all just where the citizens of just and free governments find the source of all social and political evil, in this: that they are deprived of the great gift of self-government in its best form. The grand and comprehensive remedy they seek, then, gentlemen, is to make a more complete approach, by your aid, to self-government, and not only a more complete self-government, but a species of self-government in which the will of the people shall be more certainly, more directly, and more influentially applied to the management of their own affairs. That is the grand comprehensive evil of which we complain.

The evil which we labor under is two-fold. This locality (I mean upper Roxbury) is governed, this day, not by itself, but by lower Roxbury, and not only that, but by an agricultural community, an objectionable form of government to a city government. In the first place we are governed, this day, by other men. I mean to say, gentlemen, if lower Roxbury chooses to elect this man or that man, defeat this man or that man, carry this measure or that measure, &c., it can do it, and we are powerless in their hands. The numbers are there. The numbers, too, are so concentrated, that if we should be back again at our homes, the stroke of the bell would rally them by thousands before our voters, many of them aged men, could possibly reach the polls; nor, if they did reach them, would it be of any avail. Under a city government, they have five wards and five aldermen to our three; they have fifteen common councilmen to our nine; and if they choose they can elect even ours.

Mr. Simmons. You do not mean so.

Mr. Choate. It is the Aldermen to whom I refer. They are elected by general ticket, and they may elect whom they choose, because they have 2000 voters to our 500. That region of upper Roxbury is as much governed by the lower Roxbury, if the latter chooses to exercise the power, as the Canadas are governed by the mother country.

The result is exactly this; that if there is any one act in the whole

range of municipal jurisdiction wherein the region below has a diverse interest from the region above, we have a master to that extent and have had for five years. We have had it for more ; for I am now adverting not so much to a difficulty which could be relieved by the form of government, as to a difficulty in the nature of things. I say again, if there is any one subject within the whole range of municipal jurisdiction in which their interest could come to be diverse to our interests, to that extent we have a master and they have not.

That is our case. We stand alone, of all Massachusetts, in that predicament to-day. Well, and is there not a real and important sense in which the interests of one of these regions are distinct from the other, or are liable to be distinct, and are not uniformly or certainly kindred interests ? Is it not true, so far, that to place this upper Roxbury under lower Roxbury is unjust and inexpedient, and therefore, unless it be indispensable, necessary to be reformed altogether ? Now, gentlemen, how does this matter stand in point of proof ?

In the first place, is it not perfectly clear that the universal feeling in the upper region is, that there is a diversity of interest ? I entreat the attention of the legal gentlemen of the Committee to this piece of evidence. I entreat your attention to the fact that here are practically, year in and year out, diversities of interest. Is it not clear that these diversities of interest exist ? Is not the feeling which is shown evidence of the fact ? Is there not evidence satisfactory to show clearly that the policy or sentiments of this lower region is practically different from and not kindred with the policy or sentiments of the region above ? Is there any evidence that we have differed from this view at any time, or that we have not for years maintained it ? You understand perfectly well that we cannot bring testimony before this Committee to show you that the city Government, on this occasion, was influenced by certain interests, and on that occasion by other interests, in order to carry various measures, because it is the ground of our complaint that we are a hopeless minority. Therefore if we had entered into that, and spoken of private wrongs, the number of witnesses introduced on both sides would have compelled us to remain here to the fourth of July next, if the patience of the Committee had held out so long ; and we should have

been trying this with three witnesses on one side to twelve witnesses on the other, in consequence of our disparity of numbers. For it is the very infelicity of our cause that we are in a minority. We cannot come before you and prove the minority against the majority, that there is any hostile feeling at all. And therefore I respectfully submit to you that the opinions of the witnesses which we have produced, and the existence of the strong feeling, can have no other origin than the fact that reasons for it exist. It tends, also, to prove another fact, viz: that this community has come, by the experience and teachings of years, to have a feeling that there is between these two Roxburys an actual diversity of interest, which they are able to appreciate, and under which they suffer every day that they live, though they may not be able to bring the precise case before you.

Well, gentlemen, is not the reason of this diversity of interest very apparent? Here are the town and the country, Are not their interests as such, in such sense, distinct, that although there are some points of contact, some strong ties, some kinds of connection which God has formed, and which no man may put asunder, yet that here is a connection that ought not any longer to remain?

Boston is connected by ties to all parts of the State; but would you allow Boston to govern Norfolk, or Salem to govern Essex, or New Bedford to govern Bristol? Certainly not! So here, exactly, is an illustration of what exists between us and our very good friends. This, gentlemen, is an agricultural district. It has agriculture for its general employment. Its market is Boston. Here and there is a beautiful clump of trees, as there will often be, and they grow a little on the side of that beautiful pond embosomed in Jamaica Plains. Here and there are the mechanic, the artizan, the blacksmith, the carpenter, just as there are in every farming town in Massachusetts. But its general character is agricultural, dotted here and there with a beautiful locality, standing out at last upon a plain farming land. This upper Roxbury, there it is! And it is quite true that, in point of fact, the inhabitants of wards six, seven, and eight, while they are thrown together by a general influence of locality, in addition to which some of them meet in the cars every day,

going to and coming from Boston ; but they never meet a Roxbury man once in a twelvemonth.

What is the character of the lower town ? It is a trading and commercial town. There are the artificial sidewalks, the gas-lighted stores, the artificial supply of water, the crowded and noisome population, the indestructible character of the town. And there it will be for ever.

Strengthen the ties by which they may be bound together, in a freer and easier manner. But I do submit, that to tell the Committee that these two are one, is to disturb the political and social relations of civil life. An old poet has said, " God made the country and man made the town." A still older poet has said,

" God the first garden made,
And the first city, Cain."

The city is, in the nature of things, very different from the country. My brother may come with his homied words, and tell how much he loves us. But I ask for this separation on the ground of incompatibility of interest, and demand it, also, on the ground of incompatibility of temper. I remember to have passed a portion of my life in New Ipswich. There was Old Ipswich. There was the town and there the numbers. I will tell you an instance of their government of us. Among the objects of expenditure were fire engines, hose, hooks and ladders. I remember that the people of Old Ipswich kept all the engines in Chebaeco, which was the old Indian name of the town, and sent down very religiously the hooks to New Ipswich, in order to pull down the buildings, to prevent any further spread of fire, every one of the houses being at least half a mile from each other. [Laughter.]

Not only do the petitioners seek a separation, but they seek a kind of government in which the whole people will have a freer action on the administration of affairs. They want a town government. I was only too much surprised by some of the arguments of my learned brother and some of the opinions of Mr. Copeland. So that I felt it my bounden duty, as a citizen, to submit very briefly the grounds on which I insist upon it that the agricultural portion of Roxbury has a clear, a sacred, and immediate right, not to abolish the city government below, but, by

separation, to return to the government more appropriate to themselves. Until I heard the opinion of Mr. Copeland and my brother's argument to-day, I supposed it was the opinion of every body, that it was the deep conviction of the community, that town governments, wheresoever they are practicable, are preferable to city governments. City governments are indispensable, as war is indispensable, here and there. Here and there, when a large mass comes to be accumulated upon a given point, when the materials are of such a nature that it requires more strength to control it, beyond all doubt the city government must exist. But it is a necessity. I insist upon it that, according to the profoundest convictions of this Commonwealth, town governments, wheresoever they are practicable, are, for a thousand reasons, preferable to city governments.

Till 1822, or till the convention assembled for the alteration of the State constitution, we had no other form than that of the town government. Till the population in each is 12,000 we can now have no other. Just so long as the town meeting will not be too large and uncontrollable by the moderator, the settled policy is that, in town meeting assembled, the people shall vote, shall choose their officers, shall express their opinions, shall imbibe the first lessons of practical freedom, and learn to take the important part, which you are taking here, in the administration of public affairs. That this was a wise policy, wheresoever it was practicable, I do maintain. It is not wise or practicable in Boston, in Salem, in Lowell, or in New Bedford, though I should have thought that the town government might still a little longer have been entrusted to the good sense and sobriety of Worcester. But, wheresoever it is practicable, it is a wise policy and should be maintained. The right and power to determine, in open daylight, the questions that arise, by the people themselves, is all important. Mr. Copeland said that he had attended town meetings where the fifty or sixty persons present voted away, for foolish objects, \$20,000, in the payment of which they were not concerned, and then refused a dollar for schools. I do not know where such a transaction occurred; wherever it was, it was not in upper Roxbury.

To determine, in town meeting, what shall be done by the people, is one of the most inestimable of privileges. I have not lived long enough in cities to believe that that privilege is not still held inestimable by the

people. The towns are enabled to judge practically of the economical expenditure of their money. If they determine on an expenditure, and determine it in advance, I think that the chances are ten thousand to one that their expenditures will be wiser made than if they entrusted the decision of them to boards sitting in the dark, or, at least, in the night-time. And when the objects of the expenditure are explained, I maintain that the power to judge in advance, to judge in the day-time, is better than to act upon a report without knowing any thing about the subject. It is all the difference between possessing substantial influence, and being mocked by the semblance of power without its reality.

There are higher reasons which I should present, if I did not fear to trespass on your time, why I maintain that the mode of government by town meeting should be religiously preserved with every community in which it is practicable. These town meetings are the free schools of free men; they are the schools where the people learn to think upon public affairs; where they learn the first lessons of self government; where they learn for the first time to examine public subjects, to debate in the presence of one another, and to exchange opinions on public questions of importance. They carry, therefore, gentlemen, public life down to the minutest member of society; and they connect the minutest inhabitant of the smallest and remotest town directly, at last, with the State.

I regard the town governments as great educational agencies, therefore, for the present and for the future; I regard them as great agencies for the retaining of liberty alive, for teaching its spirit, and furnishing an ability to maintain it. I honor them for what they have done. I am reminded in this connection — as one who has preceded me was reminded of, and alluded to Mr. Jefferson — I am reminded of a man, one of ourselves, better than Jefferson. I refer to the sentiments of John Adams. No one understood better than he the causes of the revolution, or the circumstances by which the American mind was influenced. I have been looking recently at a letter which he addressed, in 1782, to a celebrated Frenchman, who was about doing so absurd a thing as to write a history on the American Revolution, and was asking Mr. Adams about the authorities necessary for that purpose. In his reply, written in

English, but translated into French, and the original lost, Mr. Adams observes, that there are four great institutions in this country, to the workings of which he must pay particular attention. The first of these was the towns, in town meetings assembled, as among the great influences causing the American Revolution. He went on to describe the practice of these towns, and adds that the effect of that institution had been that all the inhabitants had acquired from their youth the habit of discussing, deliberating and determining upon public affairs. It was among these little primitive and pure democracies that the sentiments of the community, from the commencement of the dispute with England to the surrender at Yorktown, were first formed and their resolutions first adopted. Keep then these schools of thought and action open, as you keep the school-houses of the child open, and for the same reason. I have often been struck that in the crowded population of cities, in the meetings of clubs and societies, men's minds become very expert, and men become prompt in action. The agricultural mind, on the contrary, is slower. The agricultural mind is differently trained. He who follows that profession has different circumstances around him. The population is sparse. You hear already that there is a total loss of interest in West Roxbury in public affairs.

I have not time to develop the idea, but I am sure you will regard with all solicitude every institution and every influence every where that shall educate the mature agricultural mind, and enable it to perform its just part and hold its just place in the deliberations of the Legislature and of the State. You keep open the free school of the child. For God's sake do not shut the free school of the man.

I put it, therefore, to you, Mr. Chairman, to my friend here, and I submit also to this Committee, while I recognize the necessity of a city, while on a certain area and under certain circumstances the city government is indispensable, that outside of that, "it is evil, and only evil, and that continually." I do, therefore, submit to you that it is one deserving in this case of the remedy proposed.

Now, gentlemen, I have said that the first evil we complain of, and the main evil, is, that we do not live as we could wish in its amplest and most perfect and best sense under a government of our own. And I

should be quite willing to leave it there instead of pursuing their present condition into the practical consequences that follow it; that is to say, instead of going on to show you as a matter of fact that the want of self-government in its best form shows that the mischief which might be anticipated has really occurred, I should prefer to leave it on the general view that the grant of self-government is best. But I feel bound to bring to you one practical evil which results from the government under which we live; and that is exactly this as a matter of evidence in this case, that whether with good reason, or without it, the fact on which I have been insisting that upper Roxbury is connected with and subject to lower Roxbury, under the form of a city government — that fact does in reality vastly restrain the emigration of capitalists and of others not capitalists, particularly, but persons of middling fortune; persons who do their business in the city, but who would esteem it as one of their greatest privileges if they could go out at night and on Sunday and pass the time with their families in a quiet country town, so near the city as is West Roxbury. The practical evil is that the fact that we are thus connected with lower Roxbury, and are governed under the form of a city government, does operate and prevent capitalists, great and small, from benefitting us and benefitting the public, from availing themselves of the transcendent, but to some extent unopened, natural beauty and wealth with which all that part of Roxbury is filled.

I have now for a moment to call your attention to that great practical evidence; I do not mean to inquire whether it ought to have influence. My learned friends have not met the difficulty. I do not mean to inquire whether it is not just as well for people to move into Roxbury as to Somerville, or Chelsea, or Cambridge, or Dedham. I do not mean to inquire whether this union of Roxbury, upper and lower, and this government by a city government, and these high taxes, ought or ought not to prejudice and prevent people from coming in. I do not mean to inquire whether city governments work any practical mischief at all; I speak as to the matter of fact. And I submit that it is perfectly certain that such is the state of public opinion in this vicinity, opinion that we cannot help and must recognize, such is the force and operation of opinion

regarding this form of government, that it is practically and cruelly restraining the growth and prosperity of West Roxbury. It will be for you to say in view of such an opinion as this, no matter if it be sound or unsound, whether it would not be unjust and cruel to leave us for another hour under the subjection that we desire to avoid.

I follow my learned brother upon the proof; and without following him into detail, let me inquire what are the general results of the whole matter in this behalf? Mr. Chairman, we have called, in the first place, and it is the evidence on which we mainly rely—I made it eleven witnesses, but it may be only nine—from nine to eleven witnesses we have from upper Roxbury, gentlemen of the highest respectability and intelligence, many of them or some of them at times on the government of the city, every one of them owning an amount of property above the average, every one of them interested in the prosperity of this place and in the study of its decline, every one of them persons who have diligently ascertained the facts, who have offered lands repeatedly for sale, who have conversed with persons who have wished to buy or sell, and who know what their opinions are and what are the objections to investment in this town. I submit that they have concurred in the strongest terms in swearing that people will not buy and will not move upon that portion of their territory; and that the real and operating cause is the city government.

I will mention the names of the witnesses cursorily. Mr. Whitney, who is a surveyor from lower Roxbury, by his residence not inclined to favor the petition, but by his profession intimately acquainted with the subject! Mr. Curtis, a large farmer, and the son of a large farmer! Mr. Williams, a native of Roxbury, and who loves Roxbury better than a new comer like Mr. Austin, but who expends \$20,000 in an adjoining town for the purpose of avoiding the city! Mr. Brown, for sometime an Alderman of the city, and residing for a part of the time in Jamaica Plains! Mr. Cass, Mr. Cowing, Mr. Bradford, whose thorough examination entitles his opinion to respect, and my brother Austin, whose presence and language have sufficiently entitled him to your consideration. Every one of these concur in this testimony.

Now, gentlemen, who they are and what they are, you know. I am sure the evidence must have had its effect upon your minds. Time will hardly admit of a thorough examination of it, and I believe it is needless. For a sample only, and for the purpose of refreshing your own memories touching certain matters of fact on which there can be no mistake and which tell this whole story, I will ask your consent to read the testimony of two or three of them.

Mr. Williams declares himself to be a native of Roxbury, and that his affections attach him to it. "Circumstances admonished me to provide for my own family. My son was a native, and for years a resident of Roxbury. For the first years of his married life and his happiest ones were passed there." What does Mr. Williams do to make provisions for his sons? He goes into Brookline and declares that he bought a situation there for \$10,000, for eight cents a foot, and gave it to one of his sons. He purchased another for \$11,000, for eleven cents a foot, and apportioned it to his other son. Why did he go there? Was it nearer to Boston? No! Nearer to a railroad? No! Was it cheaper? No! He could have bought as eligible a situation for two cents a foot in West Roxbury. Why did he go to Brookline? Because it governed itself and had a town government. He related another fact of a proposal from one capitalist to sell land to another. The situation was satisfactory. The price was satisfactory. Yet he refused, for the single reason that it was situated in West Roxbury, which was united to the lower town by a city government; and was also governed by the lower town, a thing so objectionable to the agricultural tastes and habits.

Mr. Brown says that he has repeatedly offered lands for sale, and has been met again and again with this objection of a city government. He adds still further, "I have no doubt the city government is the cause why we cannot sell; I know persons of great wealth who have refused to purchase from that cause."

Mr. Cass tells you that he has had a piece of land for sale for five years. Brokers in Boston came out and looked at it. They liked every thing. They liked the schools. They were pleased with the neighborhood. They admired the society. But when they come to the city government, it kills all.

Mr. Bradford has examined this subject thoroughly. He says: "I have urged capitalists to come and settle in Roxbury; I urged in particular a friend of mine, a millionaire, who must leave Brookline, to come." He conversed with Mr. Bradford on the subject of the advantages of the locality. He heard the advantages, and then asked the objection. "I was obliged," says Mr. Bradford, "to mention the City Government, and it was fatal instantly. It operated upon him as upon others."

I have read but a small part of the testimony. To what purpose have I read this evidence? It is to show you by positive and direct proof, not opinions, *not opinions*, that there exists out of Roxbury a deep, prevalent, and settled objection to this connection, under this form, which, as a matter of fact, prevents emigration and prevents investment. And it proves it beyond all manner of controversy. It proves facts, not opinions and controversies. It presents to you prices asked, refusal resolved on, and the reasons given. It proves a public opinion, under which we have found it utterly impossible to develop and avail ourselves of the resources of the town. As much does this public opinion affect us as if the town were blighted by a local disease.

How do the remonstrants meet this? Have they called a solitary broker or capitalist, large or little, who swears that he never heard such an objection to selling in West Roxbury? Not one! Here and there, there was a remark thrown out upon the subject. I think we had one from Mr. Plummer, who, speaking of this subject, said, that he should be willing to pay this price or that price. But it turned out with him as with Mr. Cass' customer — he liked every thing but the City Government; and that was fatal. So that, I repeat it, here exists an opinion under which we are practically blighted to-day, as much so as if we lay under the blight of a pestilential disease. I say, you have not shown a particle of evidence that this opinion, of which our witnesses speak, is not held by all the capitalists of Boston. Not a particle of proof! Not one witness! To our eleven witnesses you have produced not one witness to say that he never heard this as an objection to settling there.

Mr. Clark. Yes; five!

Mr. Choate. If my learned friend has discovered three, or four, or

even five, it may possibly be that there are a few in Brookline, where there is a large rivalry. Possibly that may be so. But the position that I have submitted is this, that we have called nine or eleven witnesses of the highest respectability, and consummate knowledge of this question, proprietors of real estate in Roxbury, and students all their lives of the causes of this decay, who have thoroughly explored the causes why those estates will not sell, and who tell you that they have knowledge enough to know that there exists a settled and general opinion, which prevents investment and purchase there.

Now, gentlemen, what do the remonstrants undertake to say against this proof? They say that Roxbury has advanced somewhat as a whole. Who doubts that? On the very margin of such a city as this, without a river or a bridge to sever it from Boston, during the last ten years of vast growth to Boston itself, lying so as to receive the first discharge of the first overflow of this great central prosperity, it must flourish. This fact affords not the slightest ground of evidence to control such testimony as I have presented. Why, the worst government that God ever suffered to stand upon the earth could not have retarded the growth of a city in the position of Roxbury. The circumstances in which God has placed it would do more to forward it than the folly of man could retard it. Do they mean to say that notwithstanding this unfavorable state of public opinion, that upper Roxbury has increased in population? Do they mean to say that it has improved, just as all around Boston has improved, from Chelsea to Dorchester. I exclude Dorchester under its peculiar circumstances? Do they mean to say that all these circumstances have enabled West Roxbury to keep pace in any degree proportioned with any of our less beautiful, and less gifted portions of the cities around us? Not a word of it! I respectfully submit that that is the only question we have to consider; and to that point the remonstrants have showed nothing of proof.

I do not deny that Roxbury has improved. Some extraordinary evidence was given. They said that its valuation was increased; and they put in the certificates of the assessors, by which they over-prove their case, and show that these enhanced values ought every one of them to have

been made by the town government, before the charter was given. They say that every dollar of the additional amount assessed upon every one of these farms, ought to have been thus valued when they took this charter. And therefore the increase of the city valuation over that of the town government does not show that there has been a rise of property. I submit, that we put this matter really beyond a particle of controversy. The question I am considering is, whether a certain pernicious public opinion, according to the testimony of these nine or eleven trustworthy witnesses, does not pervade our due proportion of native residents of the metropolis, to which proportion we should be entitled. On that point, and in answer to my learned brother, I beg leave once more to call your attention to the statement, read by my learned brother in his opening, from the Evening Journal, edited, as you know, by a gentleman who has just retired from his seat in the Legislature, as you are aware, covered with the thanks of his constituents. He says it turns out that there has been a "removal of some 20,000 of our native [Bostonian] population to towns in the vicinity." That 20,000 would be a harvest worth getting for Roxbury. He adds that "It is also worthy of note, that very few who have left Boston for a residence in this vicinity appear to have gone to Roxbury."

I answer the counsel by the testimony of the representative from Roxbury. I should be glad to verify this. Perhaps we might compare it with the growth of neighboring towns. But such statistics are familiar to you, and, I have no doubt, would be embodied in any report which shall be presented by the Committee.

Now, gentlemen, all this emigration, somewhat hideous and painful to the native citizens of Boston, has not fallen on us in upper Roxbury. Our fleece is dry, and that of all the rest is saturated with the refreshing dew. What is the cause? It is the practical evil of which we have spoken. According to the testimony of these witnesses, all of whom have paid great attention to the subject matter, lawyers, in some instances, all of them engaged in the investigation of facts throwing light on this subject—in their opinion the cause is that a public sentiment has deterred and disheartened numbers in consequence of a connection

which we pray you to sever, and a government which we beg you to change.

What is their answer to this? They govern, they say, very well. To be sure, they outnumber us, but they govern us well. Now I am aware that it is no better than mere trifling, to make such a reply. The answer we make to that is: Suppose you do govern us very well, the great fact remains that there exists a wide, real, and settled fear that you do not govern well, or that you are likely to govern ill; just as likely to govern ill as well. And, therefore, whatever you think of yourselves, people will not come in. That is the answer. A Canadian might as well undertake to say that Canada was as well governed as the United States, and that lands sell for as much there as here. "That may be the case in a single year. But there are some facts which we value highly in connection with our own government: there is the charm of liberty, the dread of absolutism, the prestige that gathers around the stars and the stripes, which go to make up a public opinion, just as much as if they were connected with the worst legislation in the world. Public opinion is the spring of growth, the arbiter of advancement. There can be no stagnation where public opinion is healthy. "*Opposuit natura.*" The nature of things is against it.

Where there is a thronged and busy assemblage of persons, a city government is indispensable. Such has not our opposition. Therefore I hold it is worthless and senseless to say, when we point out the neighboring towns gliding upon the waters, while we are stranding upon the beach, when they are singing songs of glory, while we are chanting hymns to the moon—I say it is useless to assert, in such a case, that we are well governed. The difficulty still recurs. The difficulty still exists. It may be a prejudice at last, but men do not undertake to "gather figs from thorns, or grapes from" what they believe to be "thistles." I do not undertake to admit that they do govern us in matter of fact. I cannot help it, whether or no; but we cannot get any body out of Roxbury to believe it. We might swear ourselves as mad as the seven wise masters, and maintain it with all their folly that the government is good; but we cannot induce people to believe it.

Let me call your attention to two or three pretty striking general facts, and I shall bring my remarks to a close. They found us with an expenditure of \$42,000, and have raised it to \$83,000. They raise upon the three upper wards, a tax of \$22,000. The town of Brookline, with its population of 2500 inhabitants, pays but \$12,000. They found us with a debt of \$24,000, they have left us with a debt of \$84,000.

Mr. Simmons. That is a mistake.

Mr. Choate. Including the cemetery, it is \$84,000. Without the cemetery, the debt is \$48,000. You find us with the salaries of our officers amounting to \$3,300 and leave us with them \$5,293 a year.

Mr. Clark. That is not correct.

Mr. Austin. It is right.

Mr. Choate. It is correct. We include the police, which you have omitted. You found us with a primitive power, a democratic power, and a tax of \$3,300 a year, and leave us with a tax of \$5,293 annually for the same purpose. I will not say, as Rousseau says to Voltaire, "Sir, you have corrupted our little government, and I hate you." But you have taken the happy village we had, and pay us, not in marble, as Augustus did, not in games as Augustus did, not in stalls for the horses of the city government, as my brother has just now boasted, but in exorbitant taxation.

I go for good government, by itself, and I think a town government is better for an agricultural district, better for the agriculturalist as a man, and fits him better for all the offices in the Commonwealth. Make the change we ask for, and Roxbury takes her place at once in the circle of prosperity that surrounds her. Capital and taste will add the beauties of art to the beauties of nature. Capital and taste, in the persons of those gentlemen whom the influence of Mr. Bradford and Mr. Williams invited in vain, will then come to beautify and adorn, to blend the achievements of art with the matchless performances of nature.

But my brother thinks we shall drive out the middling classes. I submit to you that over and above the millionaires, the humble settlers will be directed this way by the Branch Railroad. These improvements, by which the wise policy of your predecessors has enabled this community

to avail themselves of their opportunities for taste and enjoyment, will enable men who work all day in town to unite themselves to their families at night and treat themselves to the country air. What that is worth, I had occasion, before a former committee, to endeavor to explain. And I have been so much struck by the inadequacy of my brother's view that we come here only to invite the millionaire among us, that I have to ask your attention to the fact that one of the best uses of this town will be the moral influence which it will exert upon the not less useful, but larger branch of society, the middling class. I had occasion, in advocating the establishing of a Branch Railroad, as I have occasion in arguing in favor of the establishment of this new home, to deal with the moral uses of railways, and of legislation.⁹ I beg leave, though it is ordinarily bad taste, to read to you what I have once before said on this subject.

“But there is an element of consideration here highly important, of which I have said nothing yet. I hope I shall excite no smile when I mention it. In appreciating the influence of railroads, we are apt to look too much to their industrial effect, how much they add to our time for labor, their relief to our tonnage, burdens, and the like, and to stop there. But there are other views of not less moment to humanity and civilization — their *moral uses*, and I beg to refer to the Westminster Review for 1844, on this point.

““People confined to towns by their daily avocations placed their children to school in the country air — when they possessed pecuniary means — except the strange anomalies of Westminster school, and similar establishments. The poor were fain to be content with the day school or the parish school — *free air was too great a luxury for them*. The church, the chapel, the lecture room, the concert room, the theatre, were all reared in impure places and their uses confined to the inhabitants of towns. ALL THIS IS WITHIN REMEDY AS THE USES OF THE RAILWAY BECOME DEVELOPED. *The poor man can have his accessible country dwelling. Churches and chapels may be reared in beautiful spots, at the confluence of lines of railway.* Temples, worthy of man's nature, where man may meet man in Christian equality; where all benign influ-

ences may be at work attracting but not compelling ; where architecture, music, and painting, the beautiful in art, may combine with the beautiful in nature.'” So far the Westminster Review.

We added, “ Sir, the rich can take care of themselves in this respect, and erect their elegant country seats in Brookline, and wherever they please, and retire to them as often as they choose. But in my judgment no use of railroads is more worthy to fix the attention of the Legislature, and attract its favor, than this of enabling the man of small means to spend a portion of his time in the country, without prejudice to his means of livelihood. The evils of living wholly confined to town can hardly be appreciated by you, gentlemen, who have the advantage of residing elsewhere ; but you may have formed some idea of them from what you have seen in winter. This road will give the man of limited income, whose bread, and whose family living, depend upon his being in the crowded haunts of traffic during the greater part of the day, the chance of spending his evenings, and his Sabbaths, in the pure and sweet air of the country, in the midst of his household circle, on his own little spot of ground, and yet enable him to be the next morning at his desk in the counting house, or place in the workshop, with little or no increase of cost. And I shall provoke no wise man’s sneer when I say, that the many clusters of quiet cottages and beautiful dwellings, which will spring up along the line of our road, affording happy homes to the man of business, delightful retreats to the wearied citizen, are of themselves no small argument in favor of our petition. * * * I put it, sir, as one great advantage, that we traverse this region of country to win it from the wild flower, the wild bird, the night breezes of the sea, and make it the pleasant abode of hundreds who would else seldom see any thing but dusty streets, and forests of masts at the wharfs. And if health is better than sickness, a full cheek than a sunken one, a bright, clear eye, than one dim and clouded, a happy and uncorrupt heart better than one tainted and debauched, and if our road shall be the means of bringing these advantages to the tired and driven merchant, book keeper, or clerk, in Kilby or Washington street, whose wildest dreams have never yet indulged in the vision of a country seat of his own, the charter will not have been granted, nor the road built, in vain.”

Give us, gentlemen, the government we seek, and this town will do for Roxbury what, thus far, the matchless beauties of Roxbury herself have been unable to do for herself. Gentlemen, it will do more. It will allay excitement; it will re-open fountains of feeling; it will enable men to know who they are and what they are; it will cover you with the gratitude of thousands unknown to you by sight or name, with no vote to honor or reward you, but who will yet thank you, and the government for whom you act, for the performance of a great beneficent deed, I think too long delayed.

Handwritten notes and calculations:

4
3

65
13

78

2,150
1,250

81,400

36
9

300
+3
5

2,155

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1,250

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9
2,110
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1.00

71.43

20.

91.43





