

SENATE....No. 14.

R E P O R T

OF THE

COMMITTEE OF THE LEGISLATURE OF 1869,

ON THE

CONDITION OF THE GAY HEAD INDIANS.

JANUARY, 1870.

I Hereby certify that the attached is a true copy of

Sen. Doc. 14 of 1869

located in the Massachusetts State Library.

James A. Allen

Commonwealth of Massachusetts.

In the Year One Thousand Eight Hundred and Sixty-Nine.

[Chap. 103.]

RESOLVE in relation to the Gay Head Indians.

Resolved, That a joint special committee, consisting of two on the part of the senate and three on the part of the house, be appointed to sit during the recess of the legislature, for the purpose of visiting the Indians of the District of Gay Head, to inquire into their condition and to report to the next legislature.—*Approved June 23, 1869.*

On the part of the Senate, Messrs. HOLDEN, of Essex, KING, of the Island District, are appointed.

S. N. GIFFORD, *Clerk.*

On the part of the House, Messrs. DAVIS, of Lunenburg, SMITH, of Boston, HART, of Fall River, are appointed.

W. S. ROBINSON, *Clerk.*

I Hereby certify that the attached is a true copy of

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John A. Allen

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James M. Allen
3

1870.]

SENATE—No. 14.

Commonwealth of Massachusetts.

To the Hon. H. H. COOLIDGE, *President of the Senate.*

The Committee appointed under the preceding Resolve, having attended to their duty, and given the subject their careful attention, beg leave to submit the following

REPORT:

Among the list of subjects to which the attention of the legislature of 1869 was called by the governor in his annual address, was that of the anomalous condition of the Indians of the Commonwealth. A joint special committee was accordingly appointed early in the session, consisting of three on the part of the Senate, and seven on the part of the House, who took the whole matter into consideration, and in their final report, (Ho. Docs. Nos. 483 and 502, 1869,) after presenting the facts and statistics so far as they had been able to gather them, and with an explanatory clause stating why no report was made concerning Gay Head, closed by recommending the passage of

- 1st. An Act to enfranchise the Indians of the Commonwealth.
- 2d. An Act to incorporate the Town of Marshpee.
- 3d. A Resolve in relation to the Gay Head Indians.

The first and third measures were adopted, but the second was lost; whereby the people of (Marshpee as well as of) Gay Head were made the recipients of the glorious privileges of Massachusetts citizenship in full—with the single slight drawback that being neither a town by themselves, nor part of any other town, the aforesaid privileges could neither be exercised nor enjoyed.

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GAY HEAD INDIANS.

[Jan. James M. Allen]

To prepare the way for remedying this continuation of the "political anomaly," as least so far as Gay Head was concerned, the present Committee visited the people of that district, and carefully noted their condition, their prospects, their situation, their views and opinions.

THE DISTRICT OF GAY HEAD

has been often described. It is one of the three peninsulas situated on the western end of Martha's Vineyard, the other two being Nashaquitsa and Squipnocket. "They are nearly cut off from the main land of the Island by Menemesha Pond which comes in from the north by a narrow strait, so shallow as to be easily fordable at low-water, and extends across to within a few rods of the south side, leaving an isthmus over which passes the highway to Nashaquitsa, and thence to Gay Head. Nashaquitsa connects Gay Head by another narrow isthmus, which has Menemesha Pond on the north-east, and Squipnocket Pond on the south-west, the latter pond bounding Gay Head on its south-east side, and dividing both Gay Head and Squipnocket from Nashaquitsa, except by another narrow neck, which connects them at the eastern extremity of Squipnocket. Gay Head is of nearly equal length and breadth, the outline somewhat irregular, between a circle and square in form, and contains, within its area, about two thousand four hundred acres of land. About four hundred and fifty acres of the land is held in severalty, and is fenced and occupied by the several owners, and the remainder is held by the tribe in common."*

This was the "tenure" at the time of Mr. Earle's writing, from whose exceedingly able report we quote, (Sen. Doc. No. 96, 1861,) and is so now. Shortly after the establishment of Gay Head as a district, in 1862, (Stat. 1862, ch. 184,) steps were taken to ascertain and determine the existing boundary lines of the lands held in severalty. In 1863, (Resolves, 1863, ch. 42,) Hon. Charles Marston was appointed to perform this duty, but died before completing it, whereupon Hon. Richard L. Pease was appointed in 1866, (Resolves, 1866, ch. 67,) and under his active and judicious supervision, order is being

* Subsequent surveys show that the whole number of acres is nearer 3,400, of which a little less than one-half is now held in severalty.

rapidly brought out of chaos and the limits of each person's lot marked out by stakes and bounds. Some of these are exceedingly small; one woman, as Mr. Pease informed us, having had a claim of *only four rows of corn*. In the performance of his duties, Mr. Pease is obliged, upon such examination and evidence as is accessible, to decide as to the ownership of property, and his decisions are generally acquiesced in with a good grace and with a better spirit of acquiescence, no doubt, than if he were dealing with the ordinary run of white people. The settling of this matter of ownership has now become absolutely essential in connection with the new condition upon which these people are about to enter; and it is not improbable that, before a great while, a condition of things will arise by which all special care and aid on the part of the State may be safely withdrawn.

In addition to what is held in severalty, there is the large tract of some nineteen hundred acres held in common. This land is uneven, rough, and not remarkably fertile. A good deal of it, however, is, or might be made, reasonably productive with a slight expenditure, and, doubtless, would be if the owners had the means; but, deficient as they are in "worldly gear," it is, perhaps, better that these lands should continue to lie in common for the benefit of the whole community as pasturage and berry lands, than to be divided up into small lots to lie untilled and comparatively unused. This, however, is a question of "property," which every "citizen" should have the privilege of determining for himself, and the people of Gay Head have certainly the right to claim, as among the first proofs of their recognition to full citizenship, the disposition of their landed property, in accordance with their own wishes. Accordingly we have inserted in the bill accompanying this Report, a section making the same provision for a distribution of their lands as was made last year for the other tribes. [See Stat. 1869, ch. 463, sect. 3.] The

POPULATION

does not vary much from the the tables given by Mr. Earle. The whole number of actual residents is a little over two hundred. Of these about ninety-four are males, and about one-half of these are of the age of twenty-one. These are mainly engaged in fishing and agricultural pursuits. Some few (and

mostly the young) go to sea, and remain away for many years, but almost invariably return to their native isle as they near the middle age of life, in preference to settling in more favored lands. Of the permanent residents a much better report can be made now than was made by the commissioners in 1849 (Ho. Doc. No. 46, 1849,) or even by Mr. Earle in 1861, who said—

“The Gay Headers are, in the main, a frugal, industrious, temperate, and moral people; but not without exceptions. In these respects they have greatly improved within the last thirty years, and particularly within the last ten or twelve years, so that, it is believed, they will bear a favorable comparison with any of the other tribes. They have made great efforts to promote the cause of temperance and of general morality, in which the mass of the population have united; but a few individuals have stood aloof and thrown their influence against these desirable reforms. They are generally kind and considerate toward each other, and perform their social and relative duties as well as do the other people in whose vicinity they reside. It is a somewhat remarkable fact, that, of less than two hundred persons who live on the plantation, over sixty, or about one-third of the whole number, are communicants of the church, and many of them adorn their Christian profession by the purity of their lives and conversation.”

At the meeting held by the committee at Gay Head on their recent visit, the chairman of the selectmen said in substance,—

“In reference to the general character of the Gay Head people, he was inclined to be a little modest; but he said that Rev. Mr. Hatch, who lived there four years, and another minister who had lived there two years, had both given their testimony to the effect that they had *never seen a case of drunkenness among the people during their residence*. What the testimony of the present minister would be he was unable to say; but he could speak for himself, as he was present. Rev. Mr. Stone accordingly rose, and said that, not only had he never seen an instance of intoxication there, but he could say of this community what he could not say of any other within the range of his experience,—he had *never heard a profane oath uttered among these people*.”

This was not isolated testimony, but the unanimous expression of all who were conversant with the habits of these people the last few years. Of

PAUPERS,

they have but three at present; one, an aged woman, who requires partial assistance; the other two, an aged man and a young child, are boarded out at the expense of the district. This has been about the average for the past eight years. There is one

DISTRICT SCHOOL,

which is kept open about eight months of the year, by a male teacher in winter, and a female teacher in summer. Hitherto, the expense of this school has been borne by the State, and, in view of the peculiar situation of this people and their circumstances, we earnestly hope this aid will be continued. In no better way can the Commonwealth compensate the long years of degradation to which an unjust denial of the rights of citizenship doomed them, than by generous assistance towards the education of their children.

THE CHURCH

is of the Baptist denomination, now presided over by the Rev. Gilman Stone. There are about forty communicants, and the average attendance at their meetings is quite large. They receive about two hundred dollars annually from the "Society for Propagating the Gospel among the Indians," and we cordially reiterate the wish of the first committee, as expressed in their report (Ho. Doc. No. 483, 1869,) that, although these people are now no longer technically "Indians," the Society will continue their benefactions as heretofore.

We come now to the consideration of the question, what shall be done with these people thus poorly circumstanced and distantly isolated. Shall they be annexed to Chilmark, or incorporated as a town? In view of all the facts as we have learned them by careful inquiry, and close observation, we unhesitatingly and unanimously answer:

INCORPORATE THEM AS A TOWN!

But it will be said *the population is too small*. That objection comes rather late now. In looking over the list of towns we find that Gay Head is very nearly the size of Hull and Mount Washington, only about one hundred less than Nahant, only

about one hundred and fifty less than Montgomery and Holland, and actually larger than New Ashford, Monroe, or Gosnold. While, therefore, it may be ordinarily desirable that towns should be larger than these, since the exceptions have been made, for doubtless "good reasons," let them be continued for the benefit of Gay Head, whose "reasons" are certainly as strong as any urged for the towns above-mentioned.

By the census of 1865, the population of the towns above-mentioned was as follows:—

Hull,	260
Mount Washington,	237
Nahant,	313
Montgomery,	353
Holland,	368
New Ashford,	178
Monroe,	191
Gosnold,	108

But, *they are too poor*, continues the objector. Yes, they are poor, but this, instead of being an argument against, is an argument for, their being incorporated by themselves. Now, though poor, they are free from debt; annex them to Chilmark (the next adjoining town,) and they are immediately taxed to help pay, not only the ordinary yearly expenses, but also the existing town debt of Chilmark!

By themselves they can be as frugal and economical as a town as they now are as a district; put them with Chilmark and they become powerless before the greater numbers of that town, and, *volens volens*, must submit to all measures, however extravagant, which their wealthier neighbors may see fit to pass. As a district they now have all the essential forms of a town government, and manage the financial and other matters of local interest to their own satisfaction. They have, therefore, the benefit of experience, and we doubt not will continue to do prudently, wisely and well, whether you call them "town" or "district," provided, you only continue them in their experiment of *self-government*.

In this connection we are reminded of a matter which bears directly upon this question of town expenses. Not among the

least of these is the expense of repairing roads. Now it so happens that the road from Gay Head to Chilmark is in most deplorable condition of which your Committee had most "striking" proof. To put this road into fair travelling condition would cost more than Gay Head could possibly afford or Chilmark be willing to give. It is the main road leading directly to the United States light-house on Gay Head, and is much travelled in summer by people from the main land, pleasure-seeking on the Vineyard; in fact, it would be as much for the benefit of summer travellers from the State at large as for either Chilmark, or Dukes County, to have this road repaired. Situated in Gay Head (all that portion requiring heavy repairs) it "belongs" to that town or district to keep it in repair. This they would doubtless gladly do, if the State would *first put it in repair*, as we think the duty of the Commonwealth requires. We should ever bear in mind that the Commonwealth has been the self-constituted guardian of these people, and, as such, was bound to look out for, and take care of, them and their interests; among the interests to be protected, we hold that the first in convenience if not of importance was the opening and keeping in order a good road whereby they could hold travelling communication with the rest of the State. Speaking of their distance from Chilmark and the disadvantages of their comparative isolation as compared with their being brought into quicker and readier contact with the outside world, Mr Earle says:

"It has already been stated that Gay Head is a peninsula. Across the narrow which connects it to the main island, passes the boundary between the Indians and the whites, and a substantial stone wall is built upon the dividing line, except where the road passes, [and here] bars are placed, and these have to be removed whenever a carriage crosses the line. Thus surrounded by the sea, except at this one point of ingress and egress, situated at a distance from the main or any other land, except the small island of 'No-man's-land,' about three miles distant, they are almost isolated from the rest of the world. This comparative isolation has both its advantages and disadvantages. While it removes them from the direct contact with the vices of the outside community, the concomitants of civilization, it cuts them off from most of the comforts, conveniences and enjoyments peculiar to refined society, and a more perfectly developed social state. It subjects them to loss of time, and to ex-

penses which bear heavily on them, and trench severely on their limited means. For their blacksmithing and various other kinds of mechanical work, for their physician, drugs, store supplies, &c., they are compelled to go from seven to fifteen miles, and every grist of grain that they have ground, must be carried ten miles to mill, and then, if it cannot be ground, at the time, they must make another journey to get it."

For these and other reasons that will readily occur to any one acquainted with the subject, we recommend that provision be made at an early day whereby the road in Gay Head from the light-house to Chilmark shall be put in good travelling order at the expense of the State; and this, whatever may be the decision as to incorporating Gay Head as a separate town.

And now to resume the question of incorporating Gay Head. It was said in relation to incorporating Marshpee, and may be said of Gay Head, that it is not good, sound policy to incorporate *a whole town of negroes*. Well; admitting the assertion to be true for the sake of the argument, (and we would not admit it for any other purpose!) we answer, first, that Gay Head would *not* be a whole town of negroes! That some of the people bear a large proportion of negro blood is true, but, (to quote again from Mr. Earle,)

"The people of Gay Head, like those of the other plantations, are a mixture of the red, white, and black races. They have, also, an infusion of the blood of the chivalry of the South, as well as of the Portuguese and Dutch, as might be inferred from the names of Ramolph, Madison, Corsa, Sylvia, and Vanderhoop being found among them. Nearly all of their young men, heretofore, have gone to sea, and many of them never return; some dying at sea, and others finding new homes in distant lands. The places of these are supplied by others, chiefly sailors, from abroad, who, getting acquainted with the Gay Head men at sea, come here, and marry Gay Head women, and settle here for life. By this continual efflux of native males, and influx of foreign males, the Indian names have almost become extinct, and but for two or three families, a list of their names would never suggest an idea of their aboriginal origin. The admixture is much like that on the other plantations, with, perhaps, a less infusion of the African than in some of them. A few are so strongly marked with the Indian characteristics, as to induce the belief that they are very nearly of pure blood; but there are none so nearly white, as in some of the other tribes."

Thus we find that so far from Gay Head being all of a class, or so exclusively made up of one race as to present a dangerous example of "caste," it is in fact decidedly mixed, while as yet, if any one blood predominates it is undoubtedly the Indian. But suppose it were otherwise, and that negro blood did indeed prevail; should it be said of Massachusetts that she refused to incorporate a body of her citizens into a town *because they were black?* God forbid. Whether the "fifteenth amendment" finally prevails or not, the time has long gone by when in the Commonwealth of Massachusetts equal political rights and privileges will be refused to any citizen or any body of citizens "on account of race, color, or previous condition of servitude."

For these reasons, then, among others, to wit: because they are capable of self-government, as their history since 1862 abundantly shows; because they are as worthy and well qualified now as they probably ever will be under the dominion of any neighboring town; because they are far remote from the nearest adjoining town by from four to seven miles; because the people of that town have been and still are strongly opposed to the annexation of Gay Head to them; because the people of Gay Head are (with but one exception,) unanimous for a separate township, as shown by their action at the public meeting at which the Committee attended; because, other things being equal, the wishes of the parties most interested ought to be consulted; and finally, because having already governed themselves in reality for the past few years (since 1862) a continuation of this control, while it would work no injury to any other interests would be of great benefit to the people of Gay Head—giving them renewed assurance of the confidence of the Commonwealth in them and inspiring them to further effort towards improvement—we unanimously recommend that Gay Head be incorporated as a township by itself.

In conclusion, we append the form of an Act which embodies the views of the Committee, and has been drafted so as to harmonize with chapter 463 of the Acts of 1869.

We also beg leave to refer for fuller statistics and information on the general subject, to the able reports already quoted from, made by Hon. F. W. Bird in 1848, J. M. Earle, Esq. in 1861, and again last winter by Mr. Bird from the first committee.

We desire also before closing to express our warm thanks to

the Hon. Richard L. Pease, of Edgartown, for very valuable assistance rendered us at Gay Head; to superintendents W. H. Bullock, of the Old Colony Railroad; W. Ladd, of the Fairhaven Branch; and E. N. Winslow, of the Cape Cod Railroad, for their courtesy in passing the Committee over their respective roads; and to Captain M. L. Eldridge, and his officers, of the schooner *Massachusetts*, for the many attentions and generous hospitalities so freely rendered us while cruising with them to the Vineyard and back.

N. J. HOLDEN,

G. A. KING,

Of the Senate.

E. DAVIS,

J. J. SMITH,

A. G. HART,

Of the House.

Commonwealth of Massachusetts.

In the Year One Thousand Eight Hundred and Seventy.

AN ACT

To incorporate the Town of Gay Head.

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

1 SECT. 1. The territory comprised in the district
2 of Gay Head is hereby incorporated into a town by
3 the name of Gay Head. And said town of Gay
4 Head is hereby invested with all the powers, privi-
5 leges, rights, immunities, and subject to all the duties
6 and requisitions to which other towns are entitled and
7 subject by the constitution and laws of this Common-
8 wealth.

1 SECT. 2. All common lands, common funds, and
2 all fishing and other rights held by the district of
3 Gay Head are hereby transferred to the town of
4 Gay Head, and shall be owned and enjoyed as like
5 property and rights of other towns are owned and
6 enjoyed.

1 SECT. 3. Any justice of the peace of the county
2 of Dukes county, may issue his warrant directed to
3 any principal inhabitants of the town of Gay Head,
4 requiring him to notify and warn the inhabitants
5 thereof qualified to vote in town affairs, to meet at
6 the time and place therein appointed, for the purpose
7 of choosing all such town officers as towns are by
8 law authorized and required to choose at their annual
9 meetings, and shall be served by publishing a copy
10 of the same in some newspaper printed in the county
11 of Dukes county and by posting up copies thereof
12 attested by the person to whom the same is directed,
13 in three public places in said town, seven days at
14 least before such time of meeting. Such justice, or
15 in his absence such principal inhabitant, shall preside
16 until the choice of a moderator in said meeting.

17 At such meeting all inhabitants of said town quali-
18 fied to vote in town affairs may vote, and no check-
19 list shall be required for any purpose.

1 SECT. 4. The said town shall be and form a part
2 of the same representative, senatorial, councillor and
3 congressional district as the town of Chilmark until
4 constitutionally and legally charged.

1 SECT. 5. The county commissioners of the county
2 of Dukes county shall, as soon after the passage of
3 this act as may be, proceed to lay out and construct
4 a road from Chilmark to the lighthouse on Gay
5 Head, and may appropriate such sum from the funds
6 of the county as may be necessary to defray the ex-
7 pense of the same; and thereafter, for a time not
8 exceeding five years from the passage of this act,

9 upon the application of the selectmen of Gay Head,
10 may appropriate such further sums as they may see
11 fit from the said funds of the county for the support
12 and repair of said road, and the governor, with the
13 advice of his council, is hereby authorized to draw
14 his warrant for the reimbursement of the same from
15 the state treasury.

1 SECT. 6. The district of Gay Head is hereby abol-
2 ished ; but all rights of any proprietors in any lands
3 in said district, and all rights of any persons under
4 lawful grants from said district, or from the treasurer
5 or agents of said district, are hereby confirmed.

1 SECT. 7. The judge of probate of the county of
2 Dukes county, upon the application of the selectmen
3 of Gay Head, after such notice as the judge may
4 direct to all parties interested and a hearing on the
5 same, if he shall adjudge that it is for the interest of
6 said parties that any or all of the common lands of
7 said tribe be divided, shall appoint two discreet, dis-
8 interested persons commissioners to make partition
9 of the same, and their award, being confirmed by
10 said court, shall be final in the premises ; but if he
11 shall adjudge that it is for the interest of said parties
12 that the same, or a part of the same, be sold, he shall
13 direct the said commissioners, after they shall have
14 given such bonds as the court may require, to proceed
15 to sell any or all of said lands, and to pay the pro-
16 ceeds thereof to the treasurer of said town ; and the
17 said judge of probate shall direct the said commis-
18 sioners to examine and define the boundaries of the
19 lands rightfully held by individual owners, and shall

20 properly describe and set forth the same in writing,
21 and such description being approved by the court,
22 shall be final in the premises; and the same, together
23 with all deeds of partition, division or sale made by
24 such commissioners shall be recorded in the registry
25 of deeds in the county, and the expenses of said com-
26 missioners, including the cost of recording said deeds,
27 the same being approved by the judge of probate,
28 shall be paid out of the treasury of the Common-
29 wealth, the same being also approved by the governor
30 and council; and the governor is hereby authorized
31 to draw his warrant accordingly.

32 Any person aggrieved by any order, decree or denial
33 of the judge of probate under this act, shall have the
34 same right of appeal, under the same rules and regu-
35 lations as provided for in chapter one hundred and
36 and seventeen of the General Statutes: *provided*, that
37 the attested copies and notices required to be given
38 by said chapter shall be served upon such parties as
39 the judge of probate shall direct.

1 SECT. 8. All sums of money payable to the select-
2 men or treasurer of the district of Gay Head, under
3 chapter thirty-six of the General Statutes, for the
4 support of schools, shall hereafter be paid to the
5 treasurer of the town of Gay Head, to be expended
6 in accordance with section four of said chapter.

7 This section shall continue in force for five years.

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