

HOUSE....No. 255.

Commonwealth of Massachusetts.

HOUSE OF REPRESENTATIVES, April 22, 1868.

The Committee on Roads and Bridges, to whom was recommended the petition of John P. Palmer and others, have duly considered the same, and report that the said petitioners have leave to withdraw.

Per order,

J. R. BULLARD.

Commonwealth of Massachusetts.

MINORITY REPORT.

HOUSE OF REPRESENTATIVES, April 22, 1868.

The undersigned, members of the Committee on Roads and Bridges, to which was recommitted the subject of the laying out of Salem Turnpike and Chelsea Bridge, and the several toll-bridges in Essex County as public highways, being satisfied, from the evidence presented before the Committee, that the laying out of said turnpike and bridges as public highways is desired by the nearly or quite unanimous opinion of the communities immediately interested, and will promote the public welfare, dissent from the conclusion of the majority of the Committee, and recommend the passage of the accompanying Bill.

ROGER H. LEAVITT.
JOHN C. BLASDEL.
T. J. FAY.

Commonwealth of Massachusetts.

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

AN ACT

Concerning the Salem Turnpike and Chelsea Bridge and the several Toll-Bridges in Essex County.

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 turnpike, way, bridges, draws and
2 piers belonging to the Salem Turnpike and Chelsea
3 Bridge Corporation, and lying in the cities of Salem,
4 Lynn, Chelsea and Charlestown, and the towns of
5 Saugus and North Chelsea, are hereby laid out as and
6 shall become a public highway on the
7 day of next.

1 SECT. 2. So much of said turnpike and way,
2 excluding the abutments, bridges, draws and piers, as
3 lies in each of the said cities and towns shall, on and
4 after said day of next, be

5 maintained by them respectively; and said cities and
6 towns shall collect and receive from the Lynn and
7 Boston Railroad Company, such proportion of the
8 expense of maintaining said turnpike and way as shall
9 be due from said company under the provisions of
10 this act.

1 SECT. 3. The supreme judicial court, or any justice
2 thereof, upon application of said Salem Turnpike and
3 Chelsea Bridge Corporation, or of the Lynn and
4 Boston Railroad Company, or of ten legal voters of
5 either of the counties of Essex, Middlesex or Suffolk,
6 shall appoint a board of commissioners, consisting of
7 one from each of the counties of Essex, Suffolk and
8 Middlesex; and said commissioners, after having been
9 sworn to the faithful and impartial discharge of their
10 duties, shall, after due notice to all parties interested
11 and a hearing, determine and award the amount to
12 be paid to said Salem Turnpike and Chelsea Bridge
13 Corporation, as damages for the laying out of said
14 turnpike, way, bridges, draws and piers, and shall
15 determine what proportions of said amount shall be
16 paid by the counties of Essex and Suffolk respec-
17 tively, and the city of Charlestown, in the county of
18 Middlesex, and by the respective cities and towns
19 thereof which are benefited by the provisions of the
20 first section of this act. Said commissioners shall
21 also determine and decree what cities and towns in
22 the counties of Essex, Middlesex and Suffolk are
23 benefited by the provisions of the first section
24 of this act, and in what proportions and manner
25 said cities and towns and said Lynn and Boston Rail-
26 road Company shall defray the expenses of the main-

27 tenance and repairs of said abutments, bridges, draws
28 and piers, and all other expenses properly incurred
29 under the provisions of this act not otherwise pro-
30 vided for therein. Said commissioners shall also
31 determine and decree what proportion of the expense
32 of the maintenance of the said turnpike and way,
33 excluding said abutments, bridges, draws and piers,
34 shall be defrayed by the said Lynn and Boston Rail-
35 road Company; and their determination and decree,
36 or that of the major of them, shall be made in writing
37 and reported to the secretary of the Commonwealth,
38 the chairman of the boards of county commissioners
39 for the counties of Essex and Middlesex, the mayor
40 and aldermen and the selectmen of each of the cities
41 and towns which shall be decreed to pay as aforesaid,
42 and the clerks of each of said corporations, and shall
43 be binding upon said counties, cities and towns and
44 corporations, unless said Salem Turnpike and Chelsea
45 Bridge Corporation shall appeal to a jury from the
46 award of said commissioners; and if said corporation
47 shall not appeal to a jury within sixty days after
48 receiving the award of said commissioners as afore-
49 said, then the award and decree of said commissioners
50 shall be absolutely binding upon all the parties
51 interested. The just fees and expenses of said com-
52 missioners shall be paid by such of the parties inter-
53 ested as the said commissioners shall decree.

1 SECT. 4. Said Salem Turnpike and Chelsea Bridge
2 Corporation may appeal to a jury from the award of
3 said commissioners in the same manner, except that
4 the time within which an appeal may be entered shall
5 be limited to sixty days as aforesaid, and subject to

6 the same liability in regard to costs as is provided by
7 law in the case of laying out highways, except that
8 the application for such jury shall be made to and
9 acted upon by the commissioners of the county of
10 Essex, and said jury may award a different sum as
11 damages to said corporation, and all damages and
12 costs awarded and incurred under this section shall be
13 paid by said counties, cities and towns in the propor-
14 tions specified by said board of commissioners
15 appointed under the provisions of the third section
16 of this act.

1 SECT. 5. If no commissioners shall be appointed
2 under the provisions of the third section of this act,
3 the commissioners of the counties of Essex and
4 Middlesex, jointly, may exercise all the powers con-
5 ferred on the special commissioners by this act.

1 SECT. 6. On and after said day of
2 next, the care and superintendence of said abutments,
3 bridges, draws and piers shall devolve upon the mayors
4 and aldermen and selectmen of the respective cities
5 and towns in which the same shall lie, and they shall
6 collect and receive from the parties liable therefor
7 their respective shares of the expense of maintaining
8 the same.

1 SECT. 6. Liability for defects in said abutments,
2 bridges, draws and piers shall exist on the part of the
3 cities and towns wherein they respectively lie, in like
4 manner as in case of defects in town ways; and the
5 damages and costs which may be recovered on account
6 of such defects, shall be paid by such cities and towns

7 as said commissioners shall decree, and by said rail-
8 road company, in the same manner and in the same
9 proportions as they shall severally be required to con-
10 tribute for the repairs and maintenance thereof.

1 SECT. 7. The county commissioners of the county
2 of Essex shall lay out as and for highways the several
3 bridges over the Merrimack River, known as Andover
4 Bridge and Lawrence Bridge in the city of Lawrence;
5 Haverhill Bridge, between the towns of Haverhill
6 and Bradford; Rock's Bridge, between the towns of
7 West Newbury and Haverhill; Essex Merrimack
8 Bridge, between the town of Amesbury and the city
9 of Newburyport; Newburyport Bridge, between the
10 town of Salisbury and the city of Newburyport;
11 also, the Essex Bridge over North River, between the
12 town of Beverly and the city of Salem, in the manner
13 now provided by law for the laying out of highways,
14 and according to the provisions of chapter two hun-
15 dred and ninety-six of the acts of the year eighteen
16 hundred and sixty-seven, so far as the same are
17 applicable. The said commissioners shall also deter-
18 mine and decree what proportion of the amount of
19 damages sustained by the proprietors of said bridges,
20 or of either or any of them, by such laying out, shall
21 be paid respectively by the county of Essex and by
22 the several cities and towns which the said commis-
23 sioners shall determine are benefited by such laying
24 out.

