

HOUSE No. 2230

By Mr. Tynan of Boston, petition of Allan E. Gifford for legislation to provide that contractors who divert funds received from the owner of real estate shall be guilty of the crime of larceny. The Judiciary.

The Commonwealth of Massachusetts

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

AN ACT PROVIDING THAT A CONTRACTOR WHO DIVERTS FUNDS IS GUILTY OF LARCENY.

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

1 Chapter 266 of the General Laws is hereby amended by in-
2 serting after section 38A, inserted by chapter 351 of the acts of
3 1928, the following section:—

4 *Section 38B.* The funds received by a contractor from an
5 owner for the improvement of real property are hereby declared
6 to constitute trust funds in the hands of such contractor to be
7 applied first to the payment of claims of subcontractors, archi-
8 tects, engineers, surveyors, laborers and materialmen arising
9 out of the improvement, and to the payment of premiums on
10 surety bond or bonds and premiums on insurance accruing dur-
11 ing the making of the improvement, and any contractor and any
12 officer, director or agent of any contractor who applies or con-
13 sents to the application of such funds for any other purpose and
14 fails to pay the claims hereinbefore mentioned is guilty of larceny
15 and shall be punished by a fine of not more than five hundred
16 dollars or by imprisonment in jail for not more than one year or
17 both.

