

HOUSE No. 312.

Commonwealth of Massachusetts.

HOUSE OF REPRESENTATIVES, March 28, 1879.

The Committee on the Judiciary, to whom was referred the petition of M. B. Whitney and others for authority to take land for a dike and other purposes to prevent the overflow of Westfield River, report the accompanying Bill.

For the Committee,

FRANCIS W. ROCKWELL.

Commonwealth of Massachusetts.

In the Year One Thousand Eight Hundred and Seventy-nine.

AN ACT

To provide for the further Protection of the Town of
Westfield from Floods.

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

1 SECTION 1. The town of Westfield is hereby
2 authorized, at any time after the first day of May
3 next, to extend the dam across Westfield River, near
4 the "Great River Mills," so called, in said town, be-
5 longing to Samuel Horton, at the southerly end of
6 said dam, at a uniform height with the present dam,
7 to a length not exceeding ninety feet ; or may entirely
8 remove the present dam, and construct a new one in
9 or near substantially the same place as the present
10 dam, of the same height and of the same length, or
11 of any greater length, not exceeding ninety feet ; or
12 may construct such new dam, as a permanent dam,
13 at a height not more than three feet below the top

14 of the present dam, and adapt such new dam to and
15 provide it with flash-boards not more than three feet
16 high, and capable of sustaining a body of water not
17 more than four feet above the top of the present
18 dam; or may entirely remove the present dam, and
19 not rebuild the same. Said town may enter upon
20 any lands lying upon the southerly side of said river,
21 and remove and take away and appropriate to its
22 own use any earth, gravel, stones, walls, or other
23 materials there being, or any buildings standing
24 thereon, for the purpose of securing the free and
25 unobstructed flow of the water of said river over
26 said dam as the same may be lengthened or rebuilt,
27 and down said river.

1 SECT. 2. Said town shall do no act under the
2 authority of the preceding section until the inhabit-
3 ants thereof, at a legal town-meeting specially called
4 for that purpose, shall vote what action shall be had
5 under said section; and no changes shall be made in
6 said dam except in conformity with such vote.

1 SECT. 3. If said dam shall be entirely removed,
2 in pursuance of a vote passed by said town, as above
3 provided, to remove and not to rebuild said dam, it
4 shall not again be rebuilt; and, if it shall be length-
5 ened or rebuilt with or without flash-boards, it shall
6 not thereafter be reduced in length or increased in
7 height, or the flash-boards increased in height, or
8 made capable of sustaining a body of water more
9 than four feet higher than the top of the present
10 dam.

1 SECT. 4. As soon as practicable after said dam
2 has been lengthened or rebuilt in conformity with
3 the provisions of this act, said town shall give notice
4 thereof to the county commissioners of Hampden
5 County; and said commissioners shall then cause a
6 permanent mark of the height thereof to be made,
7 and a plan and description of said dam and its flash-
8 boards, if any, and of the length and height of said
9 dam and flash-boards, to be made and recorded in
10 the registry of deeds for said county.

1 SECT. 5. Any person injured in his property by
2 the removal of said dam, or by any act done by said
3 town under the authority of this act, if he cannot
4 agree with said town as to the amount of his dam-
5 ages, may apply to the county commissioners for
6 Hampden County at any time within six months
7 after such removal, or act done, to estimate his dam-
8 ages occasioned thereby; and the proceedings thereon
9 shall be the same as are by law now provided in the
10 case of damages occasioned by the laying out or al-
11 teration of highways. Any party aggrieved by the
12 decision of the county commissioners shall be entitled
13 to a jury to determine the amount of his damages,
14 unless he agrees with the parties adversely interested
15 to have the same determined by a committee to be
16 appointed under the direction of the commissioners,
17 if applied for at a meeting at which the decision of
18 the county commissioners is rendered, or at the next
19 regular meeting thereafter, but not afterwards; and
20 the proceedings thereon shall be the same as now
21 provided in the case of highways.

1 SECT. 6. Said town may take by purchase or
2 otherwise and hold all or any part of the real estate,
3 including the present dam and the water-power con-
4 nected therewith, now owned by Samuel Horton,
5 lying in said town upon and near said river, and
6 upon both sides thereof, for the purpose of carrying
7 out the provisions of this act. All damages sus-
8 tained by any party, and all expenses incurred by
9 said town, under this act, shall be borne and paid by
10 said town, and the amount thereof assessed and
11 collected as other town-taxes are assessed and col-
12 lected.

1 SECT. 7. All authority conferred upon said town
2 under this act may be exercised by any special com-
3 mittee of the inhabitants of said town chosen at any
4 legal town-meeting specially called for that purpose.

1 SECT. 8. This act shall take effect upon its pas-
2 sage.

