

HOUSE . . . No. 127.

Commonwealth of Massachusetts.

HOUSE OF REPRESENTATIVES, February 27, 1871.

The Joint Standing Committee on Hoosac Tunnel and Troy and Greenfield Railroad, to whom was referred the petition of the Vermont and Massachusetts Railroad Company for cost of repairs on Troy and Greenfield Railroad, and for an abatement of rent of same, have considered the subject, and submit the following

REPORT:

By chapter 252 of the Acts of 1870, the Vermont and Massachusetts Railroad Company was authorized to repair the damages to the Troy and Greenfield Railroad occasioned by the great freshet of October, 1869, to an amount not exceeding one hundred thousand dollars, with a proviso that fifteen per cent. of the expense thereof should be borne by said Vermont and Massachusetts Railroad Company.

At the time said Act was passed, the cost of the necessary repairs had been estimated by Mr. Appleton, one of the railroad commissioners, and by the late A. R. Field, Esq., the engineer who had the charge of the original construction of the road, to be within seventy thousand dollars. The actual cost when completed was found to be \$131,055.33, in addition to which, \$24,141.99 was expended for permanent improvements, recom-

mended by Mr. Philbrook, the engineer appointed by the governor and council, making in all a total expenditure of \$155,697.32. Deducting the fifteen per cent. from so much of the expenditure as was considered by the engineer to be contemplated by the Act, amounting to \$19,639.35, and also the sum of \$98,511.39, reimbursed to the corporation by the State, and there remains a balance of \$37,546.58 paid by the company.

The Vermont and Massachusetts Railroad Company now petition that the legislature will allow them their excess of payment, the amount of the fifteen per cent. deducted, the cost of the care of the road during the repairs, interest upon their expenditures to January 13 of the present year, and to abate one additional quarter of the rent of the road during the time it could not be operated, amounting in all to \$74,225.18.

By the lease to the Vermont and Massachusetts Railroad Company, that corporation is required to do all ordinary repairs necessary to keep the Troy and Greenfield road in running order. The damages occasioned by the great freshet were extraordinary in character, and not contemplated by the lease. The legislature of last season were of opinion that the cost of such repairs rendered necessary should be borne by the State, and thence the passage of the Act referred to and the appropriation of an amount that was thought to be ample for the purpose. The result, however, proved that the injury to the road was much greater than was at first estimated. The actual cost of restoration to a condition equal to what it was before the freshet, considerably exceeded the sum provided. In addition to the cost of said repairs, there were expended upon the road for permanent improvements in constructing and strengthening abutments and piers of bridges and protecting the same, in protecting slopes, in building new culverts and enlarging old ones, and in the erection of a new bridge at the east end of the road, under the direction of the engineer appointed by the governor and council to superintend and approve the work, and who also had the approving of all the expenditures, the further sum of \$24,141.99.

This last amount, and also the excess of expenditure over the sum reimbursed by the Commonwealth, amounting together to \$37,546.58, with \$4,613.63 paid for care of the road during the

repairs, and also an abatement of three months rent of the road while it could not be worked, the Committee believe should be awarded to the company. The refunding of the fifteen per cent., deducted according to the Act of last year, and the account for interest, they think should not be allowed.

The Committee therefore submit the accompanying Bill.

For the Committee,

MOSES KIMBALL.

Commonwealth of Massachusetts.

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

AN ACT

To reimburse the Vermont and Massachusetts Railroad Company for expenditures on the Troy and Greenfield Railroad.

[HOUSE OF REPRESENTATIVES, February 27.—Read and referred to the Committee on Finance.]

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. There shall be allowed and paid from the
2 treasury to the Vermont and Massachusetts Railroad
3 Company the sum of forty-two thousand one hundred
4 and sixty dollars and twenty-one cents, as an additional
5 allowance and in full of the cost of repairing and im-
6 proving the Troy and Greenfield Railroad, under the
7 provisions of chapter two hundred and fifty-two of
8 the acts of the year eighteen hundred and seventy.

1 SECT. 2. An additional three months rent of said
2 railroad, while not in a condition for use, is abated to
3 the lessees thereof.

1 SECT. 3. This act shall take effect upon its passage.