

## HOUSE . . . . No. 376.

---

---

### Commonwealth of Massachusetts.

---

HOUSE OF REPRESENTATIVES, May 2, 1871.

The Committee on Bills in the Third Reading, to whom was referred the Act in relation to Betterments, (House Bill, 346.)

#### REPORT:

That the same is correctly drawn, with the following amendments:—

Amend the first section by striking out the word “place” in the tenth line, and inserting in lieu thereof the words “city or town”; also, by striking out the words “in its respective place” in the eleventh line, so that the first section as amended, will read:—

1 SECT. 1. At any time within two years after  
2 any street, highway or other way is laid out, al-  
3 tered, widened, graded or discontinued, when in the  
4 opinion of the board of city or town officers author-  
5 ized to lay out streets or ways respectively therein,  
6 any real estate, including that, a part of which may  
7 have been taken for such purpose, shall receive any  
8 benefit and advantage therefrom, beyond the general

9 advantages to all real estate in the city or town where  
 10 the same is situated, such board, may adjudge and de-  
 11 termine the value of such benefit and advantage to any  
 12 such estate, and may assess upon the same a propor-  
 13 tional share of the expense of laying out, alteration,  
 14 widening, grading or discontinuance; but in no case  
 15 shall the assessment exceed one-half the amount of  
 16 such adjudged benefit and advantage, nor shall the  
 17 same be made until the work of laying out, altering,  
 18 widening and grading is completed or discontinuance  
 19 made; and in case of laying out a highway or town  
 20 way by county commissioners, due allowance shall be  
 21 made for any benefit set off under the provisions of  
 22 section sixteen of chapter forty-three of the General  
 23 Statutes.

Amend the fifth section by striking out the word "place" in the eighth line, and inserting in lieu thereof the words "city or town"; also, by striking out the words "place and such places" in the seventeenth line, and inserting in lieu thereof the words, "city or town, which"; also by striking out the word "to" in the eighteenth line, and inserting in lieu thereof the words "and the same may"; also, by striking out the words "such place" in the nineteenth line, and inserting in lieu thereof the words "the city or town"; so that the fifth section, as amended, will read:—

1    SECT. 5. Any person owning real estate abut-  
 2    ting on any street, highway, or other way which  
 3    may be laid out, altered, widened, graded or discontin-  
 4    ued, and liable to assessment under this act, may, at  
 5    any time before the estimate of damages is made, give  
 6    notice in writing to the board having authority to  
 7    make the assessment, that he objects to the same, and  
 8    elects to surrender his estate to the city or town

9 where situated ; and if said board shall then adjudge  
10 that public convenience and necessity require the  
11 taking of such estate, for the improvements named,  
12 they may take the whole of such abutting estate, and  
13 shall thereupon estimate the value thereof, excluding  
14 the benefit or advantage which has accrued from the  
15 laying out, alteration, widening, grading or discon-  
16 tinuance, and such owner shall convey the estate to  
17 such city or town, which shall pay him therefor  
18 the value so estimated, and the same may be recover-  
19 ed by an action of contract ; and the city or town  
20 may sell any portion of said estate not needed for  
21 such improvements.

Amend the sixth section by striking out the words “ their place ” in the eleventh and twelfth lines, and inserting in lieu thereof the words “ the city or town ” ; so that the sixth section as amended will read :—

1 SECT. 6. All assessments made under this act  
2 shall constitute a lien upon the real estate so  
3 assessed, to be enforced in the same manner, with  
4 like charges for cost and interest, as provided by  
5 law for the collection of taxes ; and if the owner of the  
6 estate shall give notice to the board authorized to make  
7 the assessment at any time before demand is made upon  
8 him for payment thereof, that he desires to have the  
9 amount of such assessment apportioned, said board  
10 shall apportion the same into three equal parts and  
11 certify such apportionment to the assessors of the city  
12 or town, and said assessors shall add one of said equal  
13 parts, with interest thereon from the date of the ap-  
14 portionment, to the annual tax of said estate for the  
15 three years next ensuing ; and all assessments laid

16 upon real estate, for any of the causes mentioned in  
17 this act, which shall remain unpaid after the same  
18 become due or payable, shall draw interest from the  
19 time when the same became due or payable, until the  
20 time of payment thereof.

Amend the seventh section by inserting after the word court in the third line the words, " for the county in which the estate is situated " ; also, by striking out the word " place," in the sixth line, and inserting in lieu thereof the words " city or town " ; also, by inserting the word " other " before the word " civil " in the eighth line ; so that the seventh section, as amended, will read :—

1    SECT. 7. Any party aggrieved by the doings  
2 of such board, may apply by petition to the  
3 superior court for the county in which the estate  
4 is situated, at any term thereof within one year  
5 after the passage of the order or proceedings upon  
6 which the application is founded ; and after due  
7 notice to the city or town against which the petition is  
7 filed, a trial shall be had at the bar of the court in  
8 the same manner in which other civil causes are there  
9 tried by the jury, and if either party request it the  
10 jury shall view the place in question.

Amend the tenth section by striking out the first four lines and inserting, at the end of the seventh line, the words, " unless the town has passed the vote of acceptance provided for by section four of chapter one hundred and sixty-nine of the acts of the year eighteen hundred and sixty-nine " ; so that the tenth section, as amended, will read :—

1    SECT. 10. This act, except section four, shall not  
2 take effect in any town until the same is accepted

3 by such town at a legal meeting called for that pur-  
4 pose, unless the town has passed the vote of accept-  
5 ance provided for by section four of chapter one  
6 hundred and sixty-nine of the acts of the year eigh-  
7 teen hundred and sixty-nine.

For the Committee,

CHAS. F. WALCOTT.

