

HOUSE....No. 82.

Commonwealth of Massachusetts.

HOUSE OF REPRESENTATIVES, March 21, 1853.

The Special Joint Committee, to whom was referred the petition of John C. Park, in relation to Unsafe Buildings, have considered the same, and report the accompanying bill.

JAMES EGAN, *Chairman.*

Commonwealth of Massachusetts.

In the Year One Thousand Eight Hundred and Fifty-
Three.

AN ACT

In relation to Unsafe Buildings.

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. Any person intending to erect any house
2 or building, shall, before beginning to erect the same,
3 give a written notice of his intention so to do, to the
4 mayor and aldermen of any city, or the selectmen of
5 any town, of twelve thousand or more inhabitants,
6 in which said house or building is proposed to be
7 erected.

1 SECT. 2. Said notice shall designate the place
2 where said building is proposed to be erected, the
3 materials of which the same is to be constructed, and
4 shall set forth such other facts as to the external and
5 internal construction of such building, and concerning
6 the height, depth, and width thereof, as will enable
7 the said mayor and aldermen, or selectmen, to deter-

8 mine as to the security and safety of said building
9 when erected.

1 SECT. 3. If it shall appear to said mayor and
2 aldermen, or selectmen, from such statements, or
3 otherwise, that such building, if erected, would prob-
4 ably be dangerous to life, or unsafe to the com-
5 munity, they may make and record an order that the
6 owner or contractor, or other person proposing to
7 erect said building, shall appear before them, at such
8 time and place as they may appoint, for a hearing in
9 the matter; and that, in the mean time, and until
10 their decision therein, such owner, contractor, or per-
11 son, shall be prohibited from beginning to put up
12 such building, or from proceeding in the erection of
13 the same; and upon such hearing, said mayor and
14 aldermen, or selectmen, may permit the erection of
15 said building, or may prohibit the same, or may make
16 such other order, prescribing rules, restrictions and
17 alterations in said building, as, in their opinion, the
18 safety of the community may require.

1 SECT. 4. Whenever the said mayor and aldermen,
2 or selectmen, after due and reasonable notice in
3 writing, to the owner of any such building heretofore
4 erected or in use, and after a hearing in the matter,
5 shall adjudge the same to be so insecure and unsafe
6 in its construction, or dilapidated in its condition, as
7 to be dangerous to the community, they may make
8 and record, and serve on such owner an order, pre-
9 scribing such rules, restrictions, alterations or repairs,
10 as to such building, as they shall deem the public safety
11 requires.

1 SECT. 5. Any such owner, contractor, or person,

2 aggrieved by any such order as is provided for in sec-
3 tions third and fourth of this act, may apply to the
4 court of common pleas, if then in session, in the
5 county in which said building is situated, or to any
6 justice thereof, in vacation, for a jury; and such
7 court or justice shall issue a warrant for a jury to be
8 impanelled by the sheriff, in the same manner as is
9 provided in the twenty-fourth chapter of the Revised
10 Statutes in regard to the laying out of highways.
11 Such application shall be made, if at all, within three
12 days after such order is served upon such owner, con-
13 tractor, or person; and the said jury shall be impan-
14 elled within fourteen days from the issuing of said
15 warrant.

1 SECT. 6. Upon any application to said court of
2 common pleas, or to any justice of said court, for such
3 jury, said court or justice on granting the same, may,
4 in its or his discretion, issue an injunction prohibiting
5 the erection of said building, or, if then erected, pro-
6 hibiting the use or occupation of the same, or may
7 make any other order concerning the safety of the
8 same, until the final determination of such applica-
9 tion, by the jury and court to which such verdict may
10 be returned.

1 SECT. 7. The jury shall find a verdict either ap-
2 proving or annulling the said order in full, or making
3 such alteration therein as they shall see fit, which
4 verdict shall be returned to the next term of said
5 court by the sheriff, for acceptance, in like manner as
6 in the case of highways, and which verdict being ac-
7 cepted, shall be binding, to the same effect as the
8 original order would have been without said appeal.

1 SECT. 8. If the verdict shall affirm said order,
2 costs shall be recovered by the city or town against
3 such applicant; if the verdict shall annul such order
4 in whole, damages to be assessed by said jury, and
5 costs shall be recovered by the applicant against such
6 city or town; and in case the verdict shall alter such
7 order in part, the court may render such judgment as
8 to costs, as to justice shall appertain.

1 SECT. 9. Any person offending against any of the
2 provisions of this act shall forfeit a sum not exceed-
3 ing five hundred dollars, to be prosecuted and recov-
4 ered by indictment.

1 SECT. 10. This act shall not be in force in any
2 city, unless the city council thereof, nor in any town,
3 unless the inhabitants thereof, at a legal meeting,
4 shall, within sixty days of the passing thereof, by
5 vote, adopt the same.

