

HOUSE....No. 103.

Commonwealth of Massachusetts.

HOUSE OF REPRESENTATIVES, February 20, 1860.

The Committee on Roads and Bridges, to whom was referred the Report of the Agent of Essex Bridge to the Governor and Council, and the Order from the files of last year relating thereto, have considered the same, and submit the accompanying Bill.

For the Committee,

J. D. SANBORN.

Commonwealth of Massachusetts.

In the Year One Thousand Eight Hundred and Sixty.

AN ACT

In addition to an Act relating to Essex Bridge.

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. The toll upon the Essex Bridge, for each
2 chaise, or other pleasure carriage or sleigh, drawn by
3 one horse, shall be five cents, and the toll for each
4 coach or other pleasure carriage or sleigh or carriage,
5 or sleigh for passengers, drawn by two horses, ten cents,
6 subject to such commutation as is now provided by
7 law.

1 SECT. 2. The agent of said bridge shall make all
2 contracts for lumber and materials for the repair of
3 said bridge, and shall superintend all repairs thereon,
4 and he shall quarterly pay over to the treasurer of the
5 Commonwealth all such moneys as he shall have

6 received for tolls thereon, except such as he shall have
7 paid out for the repairs or maintenance of said bridge
8 thereof, or the compensation of the toll-gatherers, and
9 all sums due for such repairs, maintenance or compen-
10 sation may be paid by said agent out of said moneys
11 or by the treasurer of the Commonwealth, out of the
12 Essex Bridge fund : *provided*, that no moneys shall
13 be so paid by the agent and the treasurer, except in
14 pursuance of appropriations made in each year by the
15 general court ; and the said agent shall not incur any
16 liability for the repairs and maintenance thereof, in
17 any one year, beyond the amount appropriated there-
18 for in the same year.

1 SECT. 3. Whenever said agent shall consider such
2 mode of repair expedient and economical, he may
3 repair the ends of said bridge, by filling and making
4 the same solid : *provided*, that not more than four
5 hundred feet in length on the Salem end, and not
6 more than one hundred feet in length on the Beverly
7 end, shall be so filled in, without express authority of
8 the general court.

1 SECT. 4. Any person who breaks or injures said
2 bridge, its wharves, piers, or appurtenances, shall be
3 liable to said agent for the amount of such damages
4 in an action of tort.

1 SECT. 5. If any vessel, through the negligence or
2 carelessness of the master, or others having charge
3 thereof, injures said bridge, its wharves, piers, or
4 appurtenances, the master and owners thereof shall
5 be jointly liable to said agent therefor in an action of
6 tort.

1 SECT. 6. Whoever wilfully injures, or damages said
2 bridge, its wharves, or piers, or any of its appurte-
3 nances, or disturb or hinder the draw-tender or toll-
4 gatherer in the discharge of his legitimate duties, or
5 without the consent of the agent, moors any scow,
6 vessel or raft to said bridge or its appurtenances
7 thereto, shall forfeit the sum not exceeding fifty
8 dollars, to the use of the Commonwealth, to be
9 recovered by complaint or indictment.

1 SECT. 7. The governor and council are hereby
2 authorized to appoint three commissioners to adjust
3 all outstanding claims and matters of difference,
4 between the Commonwealth and the Proprietors of
5 Essex Bridge, on such terms as they shall deem just
6 and reasonable; and whenever the said corporation
7 shall comply with the terms of such adjustment, the
8 treasurer of the Commonwealth shall release the said
9 corporation from all further liability to the Common-
10 wealth on account of said bridge: *provided*, that if no
11 such adjustment shall have been made, or the terms
12 thereof shall have been complied with before the first
13 day of July next, the attorney-general shall commence
14 proceedings against said corporation and its officers,
15 as provided in the first section of the two hundred and
16 sixty-eighth chapter of the acts of the year one thou-
17 sand eight hundred and fifty-seven.

1 SECT. 8. No load weighing more than three tons,
2 shall cross said bridge without the consent of the
3 agent or toll-gatherer, and for such toll as they shall
4 determine; and the owner of such load shall be liable
5 for all damage to said bridge thereby, to be recovered

6 by the agent in an action of tort; and any suit com-
7 menced under the provisions of this act, by an agent
8 of said bridge, may be prosecuted by and in the name
9 of his successor, and no such action shall abate by
10 reason of the change of agent.

1 SECT. 9. The agent of Essex Bridge shall receive
2 a salary of two hundred and fifty dollars per annum,
3 which sum shall be in full for all of his services.

1 SECT. 10. All acts and parts of acts inconsistent
2 with this act, are hereby repealed.

1 SECT. 11. This act shall take effect from and after
2 its passage.

To His Excellency N. P. BANKS, Governor, and the Honorable Council.

Gents,—Having performed for the past year the duties of Agent of Essex Bridge, I would report to you some of the apparent defects in the present law for the “regulation” of said bridge.

Chapter 108, section 2, of the laws of 1858, defines the duties of the Agent, investing him with all the powers of the old corporation, yet it is considered a doubtful question whether the agent or any other person has authority to prosecute for any evasion or refusal in the payment of the tolls, or for the destruction or injury of the bridge, or the property belonging to the same.

There is also no regulation for the weight or quantity of load which any team may carry across the bridge. This is regulated by statute for incorporated bridges, as well as by their “by-laws,” but over Essex Bridge, as it is now held, it is considered doubtful whether these provisions will apply. With the improvement in carriages for drawing heavy loads, the amount now drawn on a single team is more than double what was allowed when the bridge was first constructed. Seven tons was attempted to be taken over on one team during the year, but on the tollman refusing the toll and requiring the owner of the team to be responsible for any damage that might arise, he concluded not to take the risk. My attention has been called to two buildings near the northerly entrance to the bridge, which, it is alleged, stand within the limits of the bridge-way as originally laid out.

There is also great inequality in the tolls. I would at least recommend that the rates on all vehicles drawn by one horse be at the same rate. Such has been the change in light carriages, that it is difficult to draw the line between business and pleasure. The whole number of pleasure carriages that passed over the last year was 33,000. If this class was reduced and made equal to business carriages, it would reduce the income \$330. It would be for the interest and safety of the public to make solid at least one-quarter part of the bridge, and perhaps more as such portions shall stand in need of repairs.

The average annual expense of repairs would thereby be reduced at least one-quarter part.

I would also call attention to the relations subsisting between the Commonwealth and the "Proprietors of the Essex Bridge." By their charter they were required to deliver up the bridge in a certain state of repair. On taking possession of the bridge the present Agent purchased on behalf of the Commonwealth, of the corporation, certain properties, necessary for the maintenance and repair thereof valued at about \$900. It yet remains an unsettled question whether the corporation has fulfilled all its obligations—and whether the balance of account is on the side of the corporation or the Commonwealth.

The public interest seems to require the settlement of all matters in controversy, between the parties, on a fair and reasonable basis without resorting to litigation, but the existing laws give no authority to make such a settlement.

Respectfully submitted.

JAMES KIMBALL,

Agent of Essex Bridge.

COMMONWEALTH OF MASSACHUSETTS.

COUNCIL CHAMBER, BOSTON, }
January 20, 1860. }

The Committee to whom was referred a communication from James Kimball, Agent of the Essex Bridge, having considered the same, beg leave to Report :

The communication of the Agent, though styled a report, is almost entirely given to a statement of what he considers "apparent defects in the present law for the regulation of the Essex Bridge." The difficulties complained of, if they exist, are not within the control of this body. The committee therefore recommend that the communication of the Agent of the Essex Bridge, be submitted to the legislature of the Commonwealth for their consideration.

For the Committee,

JACOB SLEEPER, *Chairman.*