

HOUSE No. 1154

By Mr. Newth of Swampscott, petition of Thomas M. Newth that the town of Swampscott be authorized to provide temporary resurfacing for private ways, Highways and Motor Vehicles.

The Commonwealth of Massachusetts

In the Year One Thousand Nine Hundred and Fifty-Seven.

AN ACT AUTHORIZING THE TOWN OF SWAMPSCOTT TO PROVIDE
TEMPORARY RESURFACING FOR PRIVATE WAYS.

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. It is hereby declared:— (a) that there are in
2 the town of Swampscott many private ways lacking a hard
3 surface which are extensively used for public travel, the
4 condition of which is deteriorating so that they have become
5 extremely dangerous; (b) that the lack of a hard surface on
6 such ways permits rapid erosion and causes holes and gulleys
7 in the traveled portion of the ways which expose the public
8 to undue risk of injury and damage; (c) that some of said pri-
9 vate ways have become almost impassable for fire apparatus;
10 (d) that there exists a situation which is injurious to the public
11 health and safety and there is no chance that the situation
12 will be alleviated by abutting owners voluntarily; (e) that the
13 cost to such owners and to the city of arbitrarily laying out
14 public ways in such areas would be prohibitive except as it
15 may be done over a very long period of time; (f) and that
16 meantime there is a public need for the temporary restoration
17 of such roads pending more permanent measures for their
18 resurfacing.

1 SECTION 2. The town of Swampscott may provide a tem-
2 porary surface on private ways within said city which have
3 been opened to public use for twenty years or more and in
4 such cases section twenty-five of chapter eighty-four shall
5 not apply. Said temporary surface shall not include stone,
6 block, brick, cement concrete, bituminous concrete, bitumi-
7 nous macadam or other permanent pavement of similar lasting
8 character, but may include the oiling or tarring of said ways
9 and the covering of such oil or tar with sand or gravel. The
10 town shall not temporarily resurface any private way unless
11 and until the board of public works has first determined
12 (1) that the condition of the private way constitutes a hazard
13 to the health and safety of the public which will not be allevi-
14 ated by the voluntary action of abutting owners; (2) that
15 the making of repairs under section six F of chapter forty of
16 the General Laws will not remove the existing hazard to the
17 public health and safety; and (3) that public convenience
18 and necessity require that a temporary surface be placed upon
19 the way. The resurfacing of any such private way shall not
20 be undertaken unless and until the board of public works
21 shall have in his possession agreements executed by all abut-
22 ting owners to release and save the town harmless on account
23 of any damage or injury whatever caused by such temporary
24 resurfacing, such agreements to release and save harmless
25 being recorded in the South Essex registry of deeds, shall be
26 deemed to be covenants running with the land and shall be
27 binding on all subsequent owners thereof.

1 SECTION 3. This act shall become effective upon its accept-
2 ance by a town meeting not later than December thirty-first,
3 nineteen hundred and fifty-seven.