

HOUSE...No. 96.

Commonwealth of Massachusetts.

HOUSE OF REPRESENTATIVES, February 17, 1859.

The Committee on Mercantile Affairs and Insurance, to whom was recommitted the Bill to protect Cut Beach in the town of Gloucester, with instructions to report the facts in the case, submit the following statement.

Cut Beach extends about half a mile. Something more than half this distance a public county road passes along the edge thereof. On the other side of this county road, and approaching within a few rods of the same, lay extensive marshes appurtenant to the waters of Ipswich Bay. In very high tides the waters flowing upon the beach and those coming over the marshes overflow the road and mingle together. It becomes, therefore, a matter of great importance that said Beach should be preserved; and to this end that no material should be removed from it.

It appears that more than one hundred years ago, the town of Gloucester became proprietor of this Beach; that in 1785 the town sold the same to one Gorham, by a deed restricting the said grantee from taking away any "ballast" from the "premises." Gorham sold it in 1787 to one Parsons, with the same restrictions; and so it has been transmitted down to one Pettingell, who divided it into lots and sold it in parcels. The

said grantor inserted the same restrictions in all his deeds, except one to John Clark, in which it was omitted; and the said Clark now claims and exercises the right to remove "ballast" from his parcel, in contravention of all title derived from said town and to the great detriment of the interest of said town.

All the proprietors of the other portion of the Beach over which the public highway does not pass, are represented as very desirous that this Bill should be enacted.

In order that no possible harm shall come upon the Commonwealth in consequence of the passing of this Act, the petitioners are willing that a section shall be added to the Bill, affording the utmost security in this respect.

The Committee report that the Bill ought to pass, with two amendments, viz.:—

1. Insert the words "and upland" after the word "beach," in third line of first section.

2. Strike out section 3 and insert the following:—

1 SECT. 3. This act shall not take effect until the
2 town of Gloucester shall give a bond in such form
3 and sum as may be satisfactory to the attorney-general
4 of the Commonwealth, to hold the said Common-
5 wealth harmless of and from all damages that may
6 result from this act.

All which is respectfully submitted.

For the Committee,

JOHN H. WILKINS.