

## HOUSE....No. 62.

---

### Commonwealth of Massachusetts.

---

HOUSE OF REPRESENTATIVES, February 7, 1861.

The Committee on Public Lands, to whom was referred the Order of January 15th, directing them to "inquire and report what portions of the Back Bay Lands were disposed of during the past year, specifying the quantity and location of each lot, the times when and to whom sold, with the price paid for each lot, and also the circumstances attending the private sale of lots, if any during the months of March and April last," would submit the following

#### R E P O R T :

That they find that land was conveyed at various times during the year 1860, previous to the 3d day of May to N. C. Munson, the contractor for filling the Back Bay, in payment for work done prior to that date, to the amount of 71,232 $\frac{1}{8}$  square feet, at the uniform rate of \$1.16 $\frac{2}{3}$  per square foot, equal in value at that rate to \$83,124.

In regard to the private sales by the Commissioners on the Back Bay, under authority of Resolve of 1857, chapter 70, and Act of 1859, chapter 223, we offer the following statement :

| DATE.         | To whom sold.            | On what Street or Avenue.       | Distance from<br>Arlington St.<br>to the point<br>of beginning. | Frontage.         | Depth.            | Quantity—<br>square feet. | Price per foot. | Amount.      | Price Paid.  |
|---------------|--------------------------|---------------------------------|-----------------------------------------------------------------|-------------------|-------------------|---------------------------|-----------------|--------------|--------------|
| Jan. 3, 1860. | Samuel G. Ward, . .      | Commonwealth Av., North side, . | 68                                                              | 31 $\frac{1}{2}$  | 124 $\frac{1}{2}$ | 435 $\frac{3}{4}$         | \$2 50          | \$1,089 37   | \$1,040 00   |
| Mh. 27, 1860. | Horace E. Armington, .   | “ “ South side, .               | 91                                                              | 56                | 124 $\frac{1}{2}$ | 6,972                     | 2 00            | 13,944 00    | 13,864 12    |
| May 2, 1860.  | William Thomas, . . .    | Marlborough Street, . . .       | 225                                                             | 84                | 112               | 9,408                     | 1 25            | 11,760 00    | 11,760 00    |
| 2, 1860.      | James Eaton, . . . .     | Newbury Street, . . . .         | 377                                                             | 23                | 112               | 2,576                     | 1 25            | 3,220 00     | 3,211 95     |
| 2, 1860.      | L. A. Peabody, . . . .   | “ “ . . . .                     | 350                                                             | 27                | 112               | 3,024                     | 1 25            | 3,780 00     | 3,780 00     |
| 2, 1860.      | Benjamin S. Rotch, . .   | Commonwealth Av., North side, . | 711 $\frac{1}{2}$                                               | 50                | 124 $\frac{1}{2}$ | 6,225                     | 1 75            | 10,893 75    | 10,839 27    |
| 2, 1860.      | Abbott Lawrence, . . .   | “ “ “ “ . . . .                 | 121 $\frac{1}{2}$                                               | 80                | 124 $\frac{1}{2}$ | 9,960                     | 1 75            | 17,430 00    | 17,391 26    |
| 2, 1860.      | Henry Whitwell, . . .    | “ “ South side, . . . .         | 175                                                             | 63                | 124 $\frac{1}{2}$ | 7,843 $\frac{1}{2}$       | 2 00            | 15,687 00    | 15,647 78    |
| 2, 1860.      | John L. Gardner, . . .   | Marlborough Street, . . . .     | 676                                                             | 95                | 112               | 10,640                    | 1 50            | 15,960 00    | 15,960 00    |
| 2, 1860.      | Daniel N. Spooner, . .   | Newbury Street, . . . .         | 400                                                             | 46                | 112               | 5,152                     | 1 25            | 6,440 00     | 6,440 00     |
| 2, 1860.      | Samuel G. Ward, . . .    | Commonwealth Av., North side, . | 201 $\frac{1}{2}$                                               | 60                | 124 $\frac{1}{2}$ | 7,470                     | 1 75            | 13,072 50    | 13,007 14    |
| 2, 1860.      | Nathan B. Gibbs, . . .   | “ “ South side, . . . .         | 316                                                             | 60                | 124 $\frac{1}{2}$ | 7,470                     | 2 00            | 14,940 00    | 14,902 65    |
| 2, 1860.      | C. W. Loring, } . . . .  | Marlborough Street, . . . .     | 309                                                             | 287               | 112               | 32,144                    | 1 25            | 40,180 00    | 40,180 00    |
|               | C. F. Choate, }          |                                 |                                                                 |                   |                   |                           |                 |              |              |
| 2, 1860.      | Samuel Hooper, . . . .   | Commonwealth Av., South side, . | 238                                                             | 78                | 124 $\frac{1}{2}$ | 9,711                     | 1 75            | 16,994 25    | 16,314 47    |
| 2, 1860.      | Samuel Hooper, . . . .   | “ “ “ “ . . . .                 | 376                                                             | 220               | 124 $\frac{1}{2}$ | 27,390                    | 1 75            | 47,932 50    | 47,692 85    |
| 2, 1860.      | Dr. Huntington's church, | Newbury Street, . . . .         | 150                                                             | 200               | 112               | 22,400                    | 1 25            | 28,000 00    | 28,000 00    |
| 2, 1860.      | Samuel Hooper, . . . .   | Commonwealth Av., North side, . | 261 $\frac{1}{2}$                                               | 334 $\frac{1}{2}$ | 124 $\frac{1}{2}$ | 41,645 $\frac{1}{4}$      | 1 75            | 72,878 18    | 70,570 37    |
| 2, 1860.      | Edward W. Saunders, .    | “ “ South side, . . . .         | 147                                                             | 28                | 124 $\frac{1}{2}$ | 3,486                     | 2 00            | 6,972 00     | 6,972 00     |
|               |                          |                                 |                                                                 |                   |                   | 213,952 $\frac{1}{2}$     |                 | \$341,173 55 | \$337,573 86 |

It will be seen that the gross amount received for the two hundred and thirteen thousand nine hundred and fifty two and one half feet of land, sold at private sale, is \$341,173.55. The net proceeds are \$337,573.86.

The statement of Lands sold at Auction during the past year is as follows :—

| DATE.                                                                                              | To whom sold.                  | On what Street or Avenue.         | Distance from<br>Arlington St. | Frontage. | Depth.            | Quantity<br>square feet. | Price per foot.    | Price Paid.  |
|----------------------------------------------------------------------------------------------------|--------------------------------|-----------------------------------|--------------------------------|-----------|-------------------|--------------------------|--------------------|--------------|
| Oct. 24, 1860.                                                                                     | Paran Stevens, . . . . .       | Commonwealth Av., North side, .   | 676                            | 60        | 124 $\frac{1}{2}$ | 7,470                    | \$3 15             | \$23,580 30  |
| 24, 1860.                                                                                          | M. D. Ross, . . . . .          | " " " " .                         | 734                            | 28        | 124 $\frac{1}{2}$ | 3,486                    | 2 40               | 8,376 40     |
| 24, 1860.                                                                                          | George Howe, . . . . .         | " " " " .                         | 764                            | 56        | 124 $\frac{1}{2}$ | 6,972                    | 2 30               | 16,035 60    |
| 24, 1860.                                                                                          | Freeman Allen, . . . . .       | " " " " .                         | 790                            | 28        | 124 $\frac{1}{2}$ | 3,486                    | 2 30               | 8,017 80     |
| 24, 1860.                                                                                          | John E. Lodge, . . . . .       | " " " " .                         | 828                            | 110       | 124 $\frac{1}{2}$ | 13,695                   | 2 25               | 30,813 75    |
| 24, 1860.                                                                                          | William Hammond, . . . . .     | " " " " .                         | 938                            | 26        | 124 $\frac{1}{2}$ | 3,237                    | 2 25               | 7,283 25     |
| 24, 1860.                                                                                          | Thomas P. Rich, . . . . .      | " " " " .                         | 964                            | 52        | 124 $\frac{1}{2}$ | 6,474                    | 2 25               | 14,566 50    |
| 24, 1860.                                                                                          | Randolph M. Clarke, . . . . .  | " " " " .                         | 1,026                          | 26        | 124 $\frac{1}{2}$ | 3,237                    | 2 25               | 7,283 25     |
| 24, 1860.                                                                                          | E. A. Hammond & J. A. White,   | " " " " .                         | 1,062                          | 26        | 124 $\frac{1}{2}$ | 3,237                    | 2 25               | 7,283 25     |
| 24, 1860.                                                                                          | Stone & Downer, . . . . .      | " " " " .                         | 1,088                          | 52        | 124 $\frac{1}{2}$ | 6,474                    | 2 25               | 14,566 50    |
| 24, 1860.                                                                                          | Charles E. Stratton, . . . . . | " " " " .                         | 1,166                          | 26        | 124 $\frac{1}{2}$ | 3,237                    | 2 25               | 7,283 25     |
| 24, 1860.                                                                                          | Abbott Lawrence, . . . . .     | " " " " .                         | 1,192                          | 32        | 124 $\frac{1}{2}$ | 3,984                    | 2 75               | 10,956 00    |
| 24, 1860.                                                                                          | Henry Lee, Jr., . . . . .      | Marlborough Street, South side, . | 926                            | 220       | 112               | 24,640                   | 1 38               | 34,020 00    |
| 24, 1860.                                                                                          | David Snow, . . . . .          | " " " " .                         | 1,146                          | 78        | 112               | 8,736                    | 1 48               | 12,852 00    |
| 24, 1860.                                                                                          | E. S. Rand, Jr., . . . . .     | " " North side, .                 | 1,170                          | 24        | 112               | 2,688                    | 1 37 $\frac{1}{2}$ | 3,696 00     |
| 24, 1860.                                                                                          | E. S. Rand, . . . . .          | " " " " .                         | 1,146                          | 24        | 112               | 2,688                    | 1 37 $\frac{1}{2}$ | 3,696 00     |
| 24, 1860.                                                                                          | Robert Orr, . . . . .          | " " " " .                         | 1,121                          | 25        | 112               | 2,800                    | 1 37 $\frac{1}{2}$ | 3,850 00     |
| 24, 1860.                                                                                          | Richard M. Hodges, . . . . .   | " " " " .                         | 896                            | 25        | 112               | 2,800                    | 1 37 $\frac{1}{2}$ | 3,850 00     |
| 24, 1860.                                                                                          | H. E. Armington, . . . . .     | " " " " .                         | 871                            | 25        | —                 | 2,800                    | 1 37 $\frac{1}{2}$ | 3,850 00     |
| 24, 1860.                                                                                          | Abbott Lawrence, . . . . .     | " " " " .                         | 1,192                          | 30        | —                 | 3,360                    | 1 62 $\frac{1}{2}$ | 5,460 00     |
| 24, 1860.                                                                                          | H. A. Johnson & R. Codman, .   | " " " " .                         | 821                            | 50        | —                 | 5,600                    | 1 37 $\frac{1}{2}$ | 7,700 00     |
| 24, 1860.                                                                                          | Henry Lee, Jr., . . . . .      | " " " " .                         | 771                            | 50        | —                 | 5,600                    | 1 55               | 8,680 00     |
|                                                                                                    |                                |                                   |                                |           |                   | 126,701                  |                    | \$243,689 85 |
| From this amount deduct the expenses of the Auction sale, as in the Commissioners' Report, page 8, |                                |                                   |                                |           |                   |                          |                    | 1,069 76     |
| Net proceeds of auction sale,                                                                      |                                |                                   |                                |           |                   |                          |                    | \$242,620 09 |

The discrepancies that exist in that part of the foregoing table, relating to private sales, between the amount for which the lots were sold and that received for them, are thus explained:—

## [B.]

HENRY WHITWELL, \$15,687—\$15,647.78.

The first payment was due July 1,

1860, but the payment was made

May 2, 1860, and 1 per cent. \$3,921 75

taken off for 2 months' interest, 39 22

\$3,882 53—\$3,921.75—3,921.75—3,921.75

S. HOOPER, \$16,994.25—\$16,314.47. 4 per cent. deducted for 8 months' interest.

It was agreed that the payments should be: One-third July 2,

1860, one-third January 1, 1861, one-third July 1, 1861, with-

out interest. This is equivalent to paying the whole on Jan. 1,

1861, without interest, and as the deposit was made 8 months \$16,994 25

prior to that time, interest was deducted, . . . 679 77

\$16,314 48

S. HOOPER, \$47,932.50—\$47,692.85. Cash, \$23,726.60; note, due July 1, 1861, \$23,966.25.

In this case, as the payments were due, one-third July 2, 1860,

one-third January 1, 1861, one-third July 1, 1861, without

interest, it was equivalent to one-half July 2, 1860, and one-

half July 1, 1861. The payment of the first half was antici- \$23,966 25

ipated 2 months, and 1 per cent. interest allowed, . . . 239 66

\$23,726 59

N. B. GIBBS, \$14,940—\$14,902.65.

The first payment was due July 1, 1860, but

as in Mr. Whitwell's case, was anticipated \$3,735 00

2 months, and 1 per cent. interest allowed, 37 35

\$3,697 65—3,735—3,735—3,735

B. S. ROTCH, \$10,893.75—\$10,839.27. Cash, \$5,393.27, and note, due July 1, 1861, without interest, for \$5,446.

This purchase was a part of Mr. Hooper's, and subject to the \$5,447 75

same conditions, (1 per cent. interest,) . . . 54 48

\$5,393 27

SAMUEL G. WARD, \$13,072.50—\$13,007.14. Cash, \$6,470.89; note, due July 1, 1861, for \$6,536.25.

|                                                             |            |
|-------------------------------------------------------------|------------|
| Same conditions as Mr. Hooper's: One-half due July 2, 1860, |            |
| and one-half due July 1, 1861; 1 per cent. deducted on ac-  | \$6,536 25 |
| count of anticipated payment, . . . . .                     | 65 36      |
|                                                             | <hr/>      |
|                                                             | \$6,470 89 |

SAMUEL G. WARD, \$1,089.37—\$1,040. Note, due January 3, 1861, was discounted April 4, 1860.

J. EATON, \$3,220—\$3,211.95. Cash, \$1,601.95, and 2 notes, \$805 each.

|                                                              |            |
|--------------------------------------------------------------|------------|
| In this case the first note, on which the interest commenced |            |
| July 1, 1860, was anticipated 2 months, and one per cent.    | \$805 00   |
| deducted, . . . . .                                          | 8 05       |
|                                                              | <hr/>      |
|                                                              | \$796 95   |
|                                                              | 805 00     |
|                                                              | <hr/>      |
|                                                              | \$1,601 95 |

SAMUEL HOOPER, \$72,878.18—\$70,570.37.

|                                                              |             |
|--------------------------------------------------------------|-------------|
| It was agreed that the payments should be: One-third July 2, |             |
| 1860, one-third January 1, 1861, and one-third July 1, 1861, |             |
| without interest; this was equivalent to paying the whole    |             |
| January 1, 1861, without interest. The payment was made      |             |
| on the 21st day of June, 1860, and interest for 6 months and | \$72,878 18 |
| 10 days deducted, . . . . .                                  | 2,307 81    |
|                                                              | <hr/>       |
|                                                              | \$70,570 37 |

H. E. ARMINGTON, \$13,944—\$13,864.12. Cash, \$8,635.12, and 3 notes, \$1,743 each.

|                                                                |            |
|----------------------------------------------------------------|------------|
| He originally gave 4 notes, but took up one of the 18 months'  |            |
| notes on the 30th of March, (the same day that he gave it.)    |            |
| and as it did not begin to bear interest till January 1, 1861, | \$1,743 00 |
| the interest, \$79.88, was deducted, . . . . .                 | 79 88      |
|                                                                | <hr/>      |
|                                                                | \$1,663 12 |

It was understood that the purchasers had the privilege of taking up their notes when they desired.

In the interview between your Committee and the Commissioners upon the circumstances attending the private sale of lands in the months of March and April last, a verbal statement was made by the Chairman of the Commission, during which notes as full as the circumstances would admit, were taken of the various points of the explanation. Subsequently a written memorandum was received from the Commissioners. Upon

comparison with our notes, and to the best of our recollection, it is substantially the statement they gave before the Committee. It was in these words :—

*“ Review of Sales of Lands in the Back Bay.*

“ In 1857, 66,752 square feet, for \$70,000, an average, of \$1.05 per square foot. This was sold unfilled. All the rest has been sold filled.

“ In 1858, 261,632 square feet to contractors, for \$305,000, paid in filling,—conveyed from time to time in 1858, 1859, and early in 1860, as work was done,—being an average of \$1.16 $\frac{2}{3}$  per square foot.

“ In 1858, also, 54,832 $\frac{1}{2}$  square feet to sundry parties, for \$101,280.53, being average of \$1.84 per square foot.\*

“ In 1859, two lots were sold upon Commonwealth Avenue, containing 6,972 square feet, for \$17,430, being an average of \$2.50 per square foot.\*

“ In 1860, on the 3d of January, a strip 3 $\frac{1}{2}$  feet wide was sold to a purchaser to increase the lot which he purchased in 1858, being 435 $\frac{3}{4}$  square feet, for \$1,060, at the rate of \$2.50 per square foot.\*

“ At the beginning of March, 1860, accordingly, the sales during the preceding fourteen months had been very inconsiderable. The Commissioners on the Back Bay were destitute of resources for carrying on the work ; the contractors having taken up large quantities of land were able to compete in the market at prices ranging from \$1.17, upwards, while the Commissioners held their lands at \$2.50 on Commonwealth Avenue and \$1.50 on the side streets. They could obtain no offers whatever at these prices. They represented the state of the case to the legislature in an official communication, dated January 15th, 1860, in which they suggested the expediency of an issue of scrip to obtain funds to continue the filling, which must otherwise stop, in default of sales ; and it was apparent that no sales could be made at the prices then held by the Commissioners.

“ This communication was referred to the Committee on Finance, before which the Commissioners appeared and stated the

\* All of this land was in the immediate vicinity of the Public Garden, much of it fronting on Arlington Street.

facts. The committee kept the matter under consideration and finally reported adversely.

“The Commissioners were constrained to press sales to obtain funds. They had received an offer in the close of the year 1859, for a considerable quantity of land upon Commonwealth Avenue, at an average rate of \$1.75 per square foot. The offer was then declined by the Commissioners, in the hope of obtaining better prices. It was afterwards renewed, under circumstances which caused it to be favorably regarded. The parties gave assurances of beginning immediately the erection of dwelling-houses upon the land, sufficient in number and of a description to determine the character of the territory as a desirable situation for first class residences. The Commissioners used every effort, by public advertisement and by private solicitation, in all quarters known to them, to obtain higher prices; but no offer was made so favorable, and they finally concluded an agreement to sell all that remained on the north side of the Commonwealth Avenue and a considerable quantity on the south side, altogether 89,950 square feet for the aggregate price of \$155,660. They subsequently concluded agreements to sell all that remained east of Berkeley Street upon the same or higher rates for the lands upon Commonwealth Avenue, and at the rate of \$1.25 per square foot on the side streets. The parties purchasing (with one exception) desired not to take deeds immediately, but to leave the sales in abeyance until after the first day of May, a course to which the Commissioners could interpose no objection. All of these sales, therefore, (with the single exception) were consummated by deeds dated May 2d, 1860. The average price obtained for lands on all the streets was \$1.55 per square foot. Subsequently to these sales the legislature passed an Act authorizing the issue of scrip, and requiring all sales of land after the fourth day of May to be made by public auction.

“An account of the sale by public auction on the 24th day of October, 1860, was rendered to the executive in a supplementary report of the Commissioners on the Back Bay, dated December 1st, 1860, appended to their Ninth Annual Report, printed as Public Document, No. 18.

*Recapitulation of Sales from the beginning.*

|                                                    | Quantity in<br>square feet. | Price.         |
|----------------------------------------------------|-----------------------------|----------------|
| Sales of 1857, (unfilled,) . . . . .               | 66,752                      | \$70,000 00    |
| “ 1858, to contractors, paid in filling, . . . . . | 261,632                     | 305,000 00     |
| “ 1858, . . . . .                                  | 54,832½                     | 101,280 53     |
| “ 1859, . . . . .                                  | 6,972                       | 17,430 00      |
| “ 1860, private sales, . . . . .                   | 213,952½                    | 337,573 86     |
| “ 1860, public sale, . . . . .                     | 126,701                     | 242,620 09     |
| Total, . . . . .                                   | 730,842                     | \$1,073,904 48 |

In justice to the Commissioners it should be remembered that under the provisions of the law governing their action, the responsibility of disposing of land at private sale rested not only upon them, but also upon the governor and council — no deed being valid until approved by the council, and signed by the governor. The records of the council show that the requirements of the law in these respects were complied with. The Commissioners in their verbal statement informed the Committee that the head of the executive department of the government concurred with them in the view they took of the affairs of their trust in the early part of the year 1860, and strongly advised the sale of the land upon the terms upon which it was finally consummated.

In view of the fact that the Act of 1860, chapter 200, provides the remedy that might be suggested by the foregoing statements, your Committee, having presented the information called for by the Order under which they acted, together with the explanations of the Commissioners on the Back Bay Lands, do not consider themselves called upon to give an opinion as to the expediency of selling, (under the circumstances in which the Commissioners found themselves in the spring months of 1860,) so large a tract of the public land at the prices obtained.

In the matter of the delivery of deeds upon the second day of May, of land sold in the months of March and April last, exceeding in amount \$326,000, your Committee would say that a careful examination of the subject shows that part of the land was sold in an unfinished state, and agreements made which by their terms without interest deferred the final payments and the delivery of the deeds to a period as remote as July, eighteen hundred and sixty-one. The law of April 4th, 1860, discontinuing private sales thirty days from that date, compelled the Commissioners to request their purchasers to anticipate the time at which they had previously agreed to take deeds.

As an inducement to the buyers to receive deeds at that time which, under their agreements they were not obliged to do, the Commissioners, without previous consultation with the parties, offered them deeds dated May the second, in exchange for the original agreements, because they considered the sale of the land to those who proposed purchasing, a matter of sufficient importance to the enterprise under their charge, to justify them in so doing; and under the changed conditions which the Act of April fourth compelled, they had no expectation that the sale would be concluded if the purchasers were called upon to take deeds which would render them immediately liable for taxes. The same proposals were made to all parties to whom they sold prior to the first day of May, and the purchasers thus protected by the action of the Commissioners from taxation by the city of Boston.

Your Committee, in the course of their investigation, have been convinced that further legislation is necessary with regard to the sale of lots upon the lands of the Commonwealth, and would recommend that their Report be referred to the Committee on the Judiciary, with instructions to report a Bill which shall provide for the taxation in an equitable manner of the land sold by the Back Bay Commissioners. They deem that such a law is the right of the great city which contributes so largely to the resources and material prosperity of the State.

For the Committee,

THOMAS HILLS.

