

SENATE...No. 59.

Commonwealth of Massachusetts.

IN SENATE, March 5, 1857.

The Joint Special Committee, to whom was referred the Report
of the Committee on the Back Bay Lands,

REPORT:

That the Committee on the Back Bay Lands had power, by the Resolves of chapter 76, laws of 1856, to release, upon such terms and conditions as they shall think fit, the right, title and interest of the Commonwealth in and to any or all of the lands and flats in the Back Bay, for money, or such valuable consideration as they should deem proper; also, to devise plans for the improvement of said territory, or any part thereof, and to settle, arrange, adjust and compromise all differences, disputes and claims, with any parties interested, or claiming any right, title or interest in any lands in the Back Bay; and they may alter, reform or amend all contracts, whether by deed or otherwise, heretofore made by the Commissioners on the Back Bay, subject to the approval of the governor and council, all parties agreeing thereto; but they were forbidden to make any expen-

ditures, or incur any liabilities for the improvement of said territory, until authorized so to do by the legislature.

Under this power, they have agreed upon a plan of improvement, and have made four several contracts, one of them, which may be found at length in the report of the committee, page 30, marked (D,) is a tripartite indenture between the Commonwealth, the City of Boston, and the Water-Power Company. This contract requires legislative action. It is a very important contract, in which the numerous disputes, disagreements and difficulties, which have existed between the parties for a long time, are all adjusted and settled. Among the obstacles that existed against the improvement of the State lands in the Back Bay, and removed by the contract aforesaid, was the right claimed by the City of Boston, to drainage into the empty basin; the dividing line at the Public Garden, running from Beacon to Boylston Street, and the restriction which existed against any building being erected within one hundred rods of Charles Street.

By the contract aforementioned it is defined, where the drains and sewers shall run, in what manner built, and who shall pay for them; and until this was done, while the City of Boston claimed the right to drain anywhere, into and over the flats in the Back Bay, no improvement could be made. Next the dividing line was not at a right angle with Beacon or Boylston Street, but was acute, injuring materially any plan of streets that could be laid out over the Back Bay lands. It is now agreed, that the dividing line shall be at a right angle with Beacon Street, extending from Beacon to Boylston Street; it is also determined that the restriction against building on said line shall be removed, and it is further provided, that a street shall be made eighty feet wide, from Beacon to Boylston Street, the centre of said street to be the dividing line aforesaid; one-half of this street is to be made by the City of Boston, and one-half by the Commonwealth. The building, or making of a portion of the drain and sewers, and the making of one-half of said street by the Commonwealth, will involve a future expenditure of money, and therefore needs the sanction of the general court. It appears that the Committee were aware of this difficulty, and took the advice of the attorney-general. The Governor and Council, the City Government of Boston, and all

parties to the contract, likewise understood that action of the legislature was essential to complete the contract. It appears to your Committee that all parties acted in good faith, trusting to the general court to complete the arrangement; and we believe that the best interest of the State will be insured by the affirmation of the said contract, and we therefore submit the following Bill.

For the Committee,

JOHN H. SHAW, *Chairman.*

Commonwealth of Massachusetts.

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

AN ACT

To confirm an Indenture concerning the Back Bay.

*Be it enacted by the Senate and House of Representatives,
in General Court assembled, and by the authority of the
same, as follows:—*

1 The indenture of three parts made and executed on
2 the eleventh day of December, in the year eighteen
3 hundred and fifty-six, by and between the Common-
4 wealth of Massachusetts, acting by its committee ap-
5 pointed under and in pursuance of the "Resolves in
6 relation to Lands in the Back Bay," approved May
7 thirtieth, in the year of our Lord eighteen hundred
8 and fifty-six, of the first part; the Boston Water-
9 Power Company, of the second part; and the City of
10 Boston, of the third part, is hereby confirmed and
11 established.