

SENATE No. 113.

Commonwealth of Massachusetts.

SENATE, March 1, 1882.

The Committee on Public Health, to whom was referred the petition of the Mayor of Lawrence to take certain lands and do certain acts for purposes of drainage and the preservation of the public health, report the accompanying Bill.

For the Committee,

N. A. HORTON.

Commonwealth of Massachusetts.

In the Year One Thousand Eight Hundred and Eighty-two.

AN ACT

To authorize the City of Lawrence to take certain Lands and to do certain Acts for the purposes of Drainage and the Preservation of the Public Health.

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. The city council of the city of Law-
2 rence are hereby authorized to fix the boundaries of
3 the Spicket River, in said city, and for that purpose
4 to alter, change, widen, straighten, and deepen the
5 channel of said Spicket River, and to remove ob-
6 structions therefrom, and may use and appropriate
7 said channel as improved, cover it, pave it, and en-
8 close it in retaining walls, and lower or raise the sur-
9 face of the water in said channel from the present
10 level, so far as the said city council shall adjudge
11 necessary for the purposes of sewerage, drainage, and
12 the public health.

1 SECT. 2. The city council of said city are hereby
2 authorized, as a part of said scheme for improving
3 the valley of said Spicket River, to lay out, construct,
4 and maintain such sewers as they may adjudge ne-
5 cessary for the public health.

1 SECT. 3. The said city council are hereby au-
2 thorized to establish grades in the different parts of
3 said valley as they may adjudge to be necessary for
4 the complete drainage thereof and the preservation
5 of the public health, and may from time to time re-
6 quire the owners of land in said valley, or any of
7 them, to raise the surface of said land to such grade,
8 filling the same with good materials to the approval
9 of said city council. All orders under this section
10 shall be made in writing, and served in the mode
11 provided for serving orders of boards of health for
12 the abatement of nuisances.

1 SECT. 4. If any owner of lands so required to be
2 filled fails to comply with such order within six
3 months after service thereof, the said city council
4 may cause the same to be filled with proper materials
5 to said grade; and all necessary expenses incurred
6 thereby shall be a lien on said land, and may be col-
7 lected as provided in section ten of this act.

1 SECT. 5. Any person assessed as provided in the
2 previous section for the expenses of filling his land,
3 may file in the office of the clerk of said city, and
4 in the registry of deeds for the northern district of
5 Essex, within thirty days after notice of such assess-

6 ment, notices in writing signed by him, to said city,
7 describing such land with sufficient accuracy for
8 identification, and stating his election to surrender
9 the same to said city, and the title to said land shall
10 thereupon vest in said city in fee simple.

1 SECT. 6. The said city council are hereby au-
2 thorized to take and hold, by purchase or otherwise,
3 such lands, water-rights, dams, easements, and other
4 real estate as they may adjudge necessary for the
5 purposes of this act, including land whereon to ob-
6 tain materials for such grading. If said city council
7 or its agents do not agree with the owners of such
8 lands or rights to purchase the same, the said city
9 council shall cause a description of any such lands
10 or rights which they shall adjudge to be required for
11 the said purposes sufficiently accurate for identifica-
12 tion, with a statement of the purposes for which it is
13 so taken, to be filed in the registry of deeds for the
14 northern district of Essex. Such description and
15 statement shall be severally signed by the mayor of
16 said city. The title to such lands and rights shall
17 thereupon vest in the city in fee simple.

1 SECT. 7. Any owner of lands or rights so taken
2 or surrendered who cannot agree with said city as to
3 the value of the estate so taken or surrendered, or
4 any person who suffers damage or injury in his prop-
5 erty or rights from any act of said city or its agents
6 in the execution of the powers conferred by this act,
7 may have the said value or the amount of said
8 damages assessed by the county commissioners for

9 the county of Essex, on application made by him
10 to them in writing, and filed within one year after
11 such taking or surrender; and either party dissat-
12 isfied with the award of the county commissioners
13 may apply, within six months after the filing of their
14 award, to the superior court for said county of Essex
15 for a jury to assess such damage. The proceedings
16 before the county commissioners and the superior
17 court shall be similar to those in case of land taken
18 for highways.

1 SECT. 8. The respective rights and remedies of
2 persons having different or separate rights in the
3 same property as to the disposition of damages
4 awarded to them and agreed to by them shall be
5 the same in all respects as they now are in case of
6 property taken in laying out highways.

1 SECT. 9. If, in the opinion of the board of alder-
2 men of said city, any real estate receives any benefit
3 and advantage from the improvements made under
4 this act beyond the general advantage to all the
5 real estate in said city, they shall determine the
6 value of such benefit and advantage to such real
7 estate, and may assess upon the same a proportional
8 share of the expense of such improvements. Such
9 valuation and assessment may, if the city council so
10 order, be made separately for sewers constructed
11 under this act, and for other work done under it.
12 Such assessment shall be made after the work for
13 which it is laid is completed, and within two years
14 from its completion.

1 SECT. 10. The sum so assessed shall be a lien
2 upon such real estate for two years after it is assessed,
3 and if not paid within ninety days after notice of
4 such assessment served upon the owners of such real
5 estate, or left at his last and usual place of abode, if
6 a resident of said city, or if a non-resident, by pub-
7 lishing the same three successive weeks, once a week,
8 in some newspaper published in said Lawrence, and
9 further, if the place of residence of a non-resident
10 is known, then also by personal notice, the assess-
11 ment may be collected by a sale of such real estate,
12 conducted in the same manner as a sale of real estate
13 for the non-payment of taxes; or, at the election
14 of said city, such assessment, or any part thereof,
15 may be collected by a suit at common law. Any
16 person or corporation aggrieved at the amount so
17 assessed upon their real estate may, at any time
18 within three months after receiving notice of such
19 assessment, apply to the superior court for said
20 county for a jury to revise such assessment in the
21 manner provided in section seven of this act. The
22 lien for the sum so assessed, and costs accruing
23 thereon, shall continue for one year after final
24 judgment upon said application, unless the sum
25 found due is sooner paid. But if judgment shall
26 be rendered sustaining such assessment in any
27 part, said city, on motion, may have an execu-
28 tion in common form therefor; and the lien upon
29 such real estate shall thereupon cease. If such
30 assessment shall be declared void for any defect, it
31 may be re-assessed, as is provided in case of the re-
32 assessment of taxes.

1 SECT. 11. In every case where a jury is applied
2 for under this act, the party in whose favor the
3 award or assessment appealed from is raised shall
4 be considered as the prevailing party, and shall re-
5 cover costs.

1 SECT. 12. The city of Lawrence is hereby author-
2 ized to lay railway tracks through any street or
3 streets of said city, and maintain them so long as
4 may be necessary to enable earth or other material
5 to be transported to fill the said district under the
6 provisions of this act.

1 SECT. 13. The powers conferred by this act,
2 except so far as the taking of lands and rights are
3 concerned, may be delegated by said city council to
4 such board of commissioners as they may by ordi-
5 nance establish, or may be exercised directly by said
6 city council.

1 SECT. 14. This act shall be void unless accepted
2 within two years from its passage by a two-thirds
3 vote of all the members in each branch of the city
4 council voting by yeas and nays, and approved by
5 the mayor.

