

SENATE No. 216.

Commonwealth of Massachusetts.

SENATE, April 12, 1881.

The Committee on Public Health, to whom was recommended the subject-matter of so much of the Petition of the city of Salem filed with the Secretary of State praying for power to acquire flats, water-rights, and franchises, and for the repeal of chap. 154 of the Acts of 1879, as relates to the taking of flats, water-rights, and franchises, report the accompanying Bill.

For the Committee,

N. A. HORTON.

Commonwealth of Massachusetts.

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

AN ACT

To authorize the City of Salem to take certain Flats in the North River.

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. For the purpose of abating the nui-
2 sance in the City of Salem, in that part of the North
3 River lying in Salem above North Bridge, the said
4 city may, from time to time, purchase or otherwise
5 take any or all of the flats lying in the said North
6 River, between North street and Grove street, and
7 southerly of the Essex Railroad, and fill and raise
8 the same to such grade as may be deemed necessary
9 or expedient. Such city shall, within sixty days
10 from the time it shall take for such purpose said
11 flats or any of them, file in the office of the registry
12 of deeds for the county of Essex a description of
13 the flats so taken, as certain as is required in a

14 common conveyance of lands, and a statement that
15 the same are taken pursuant to the provisions of
16 this act; which said description and statement shall
17 be signed by the mayor of said city, and the title of
18 all flats so taken shall vest in the city of Salem in
19 fee-simple, and the same may be sold and conveyed
20 by said city in such manner as the city council may
21 determine; and if any party whose flats are taken
22 shall agree with said city upon the damage done to
23 him by the said taking, the same shall be paid to
24 him by the said city forthwith.

1 SECT. 2. Any owner of flats so taken who cannot
2 agree with the said city as to the damage done to him
3 by said taking, may have the same assessed by the
4 county commissioners; and if either party is dissat-
5 isfied with the estimate of the county commissioners,
6 said party may apply for a jury to assess the dam-
7 ages; and the proceedings thereupon and the pro-
8 ceedings upon application to the county commission-
9 ers shall be the same as provided for the assessment
10 of damages in laying out highways. The respective
11 rights and remedies of persons having different or
12 separate interests or estates in the same property, as
13 to the disposition of the damages awarded or agreed
14 to under this act, shall be in all respects the same as
15 they now are in the case of property taken for the
16 laying out of highways.

1 SECT. 3. If any party shall apply for and obtain
2 a trial by jury, he shall recover his legal costs after
3 such application, if he shall recover a greater amount

4 than the award of the county commissioners with
5 the accrued interest thereon; otherwise he shall be
6 liable for the legal costs of the city of Salem. If
7 said city shall make such application, and the ver-
8 dict of the jury shall be less than the amount
9 awarded by the county commissioners, it shall re-
10 cover its legal costs; otherwise it shall be liable for
11 the legal costs of the other party.

1 SECT. 4. No application to the county commis-
2 sioners to estimate damages for lands taken as above
3 shall be sustained unless made within three years
4 from the time of taking the same.

1 SECT. 5. The city council of the city of Salem is
2 hereby authorized to lay out, in the manner provided
3 by the charter of said city, any street or way over
4 any of the flats referred to in this act.

1 SECT. 6. This act shall take effect on its accept-
2 ance by the city council of the city of Salem.