

SECTION 3. If the commissioners fail to offer in payment for any land so taken, a sum satisfactory to the owner thereof, such owner may within one year thereafter, petition the superior court for the county in which said lands are situated, and the matter of his damages shall be tried by a jury, and the proceedings shall be conducted in the manner provided in case of damages by laying out highways. If the damages found by the jury, exceed any amount offered by the commissioners, the damages and all charges shall be paid by the Commonwealth; otherwise, the charges arising on such petition shall be paid by the petitioner.

Matter of damages may be tried by a jury.

SECTION 4. This act shall take effect upon its passage.

*Approved June 5, 1873.*

AN ACT TO AUTHORIZE THE RAISING OF THE GRADE OF CERTAIN LANDS IN THE CITY OF BOSTON, FOR THE PURPOSE OF PRESERVING THE PUBLIC HEALTH IN SAID CITY.

Ch. 340.

*Be it enacted, &c., as follows :*

SECTION 1. The city council of the city of Boston, may order the owners of lands in said city, situated and lying within the district which is bounded north-westerly by Washington Street, south-westerly by Eustis Street and Mall Street, south-easterly by Albany Street, and north-easterly by Northampton Street, or any of such owners to raise the grade of their said lands, filling up the same with good materials to such permanent grade as may be deemed necessary by the board of aldermen in order to secure a complete drainage thereof, so as to abate and prevent nuisances, and to preserve the public health of the city.

City council may order owners to fill up certain lands in Boston.

SECTION 2. All orders under the preceding section shall be made and served upon said owners or occupants, or their authorized agents as prescribed by section nine of chapter twenty-six of the General Statutes for the service of orders of the boards of health, and if the owner of any such lands fails to comply with any such order within six months after such service, the city council shall raise the grade of his said lands, and the private streets, ways and courts thereon, filling up the same with good materials to the grade authorized by the preceding section and specified in the order; and all necessary expenses incurred thereby shall constitute a lien upon the lands filled, and a lien upon all buildings upon such lands, and may be collected, and the city collector may purchase such

Orders to be served upon owners or occupants.

If owner fails to comply, city council may raise the grade.

lands, or lands and buildings in behalf of the city; all as is provided by law for the collection of taxes upon real estate and in case of land sold for taxes. If the owner of any estate so assessed for such expenses desires to have the amount of said assessment apportioned he shall give notice thereof in writing to the board of aldermen at any time before a demand is made upon him for the payment thereof; and said board shall thereupon apportion the said amount into three equal parts, which apportionment shall be certified to the assessors and the said assessors shall add one of said equal parts to the annual tax of said estate each year for the three years next ensuing.

Parties dissatisfied with assessment of expense of raising may apply for a jury.

SECTION 3. Any person entitled to any estate in any land, the grade of which shall be raised under the preceding section, who is dissatisfied with the assessment of the expense of raising the grade of his land, may, within twelve months after receiving notice of such assessment, apply for a jury by petition to the superior court and have the expenses assessed in the same manner as betterments for the laying out and widening of streets and highways in the county of Suffolk may be assessed.

Land to be taken by the city if party gives notice within six months.

SECTION 4. Instead of making such complaint, any person dissatisfied with the assessment of the expense of raising the grade of his said land, may give notice thereof to the city council within six months after such assessment is made, and the city shall thereupon take said land, and shall within sixty days thereafter file in the office of the registry of deeds for the county of Suffolk a description of the land so taken, as certain as is required in a common conveyance of land, together with a statement that the same is taken pursuant to the provisions of this act, which description and statement shall be signed by the mayor of the city, and the title to lands so taken shall vest absolutely in the city.

If damages are agreed upon, amount to be paid forthwith.

SECTION 5. If any person whose land is taken under the preceding section, agrees with the city upon the damage done to him by such taking, making due allowance for the improvement in raising the grade of such land, the same shall be forthwith paid to him by the city. If any such person shall not so agree, he may, at any time within twelve months from the filing of such description and statement, apply for a jury as provided in section three of this act; and in determining the damages due allowance

If not agreed upon may be settled by a jury.

shall be made for the improvement by raising the grade of said land. The damages awarded by the jury shall be paid by the city, and if the damages are increased above the sum before offered by the city, all legal charges arising on such application shall be paid by the city; otherwise, by the applicant.

SECTION 6. The city, at its own expense, shall raise the grade of all public and private streets and courts bordering upon any lands the grade of which is ordered to be raised under this act, filling up such streets and courts with good materials to the grade established by the board of aldermen of said city.

Streets bordering upon land filled up to be raised to same grade by the city.

SECTION 7. This act shall not be construed as in any way exempting the city of Boston from any obligation it would otherwise be under to make compensation to the owners of lands abutting upon or near to any land or street filled hereunder, or for any injury done or caused to the lands of such owners, under any order or proceeding hereunder.

City not exempted from damages to abutters.

SECTION 8. The city of Boston is authorized to lay railroad tracks through any street or streets of said city, and to maintain them so long as necessary for transporting earth and other material under the provisions of this act.

Railroad tracks may be laid in streets.

SECTION 9. If in the execution of the provisions of this act it shall be deemed necessary to change the grade of any street, now established by law, which change shall require the raising of any buildings which have been erected in conformity to said grade, the city of Boston shall pay the expense incurred in consequence of such change, or be liable to damages as now provided by law in cases of change of grade.

If grade of street is changed city to pay expense of raising buildings.

*Approved June 5, 1873.*

AN ACT CONCERNING FEES OF TOWN CLERKS FOR OBTAINING AND RECORDING THE FACTS RELATING TO DEATHS.

*Ch. 341.*

*Be it enacted, &c., as follows:*

Chapter one hundred and thirty-eight of the acts of the year eighteen hundred and sixty-six is amended by striking out the words "twenty cents" at the close of section one, and substituting therefor the words "thirty-five cents."

Amendment to 1866, 138, § 1.

*Approved June 6, 1873.*

AN ACT IN RELATION TO THE COMPENSATION OF AUDITORS.

*Ch. 342.*

*Be it enacted, &c., as follows:*

Section fifty of chapter one hundred and twenty-one of the General Statutes, as amended by chapter sixty-seven

Amendment to G. S. 121, § 50. 1867, 67.