

To contribute annually \$5,000 to the sinking fund.

SECTION 2. To provide for the payment of said sewerage bonds at maturity said town shall annually, for twenty successive years, raise by taxation the sum of five thousand dollars to be contributed to a sinking fund to be established by said town in accordance with the provisions of chapter twenty-nine of the Public Statutes and the amendments thereof.

*Approved May 7, 1891.*

**Chap.321** AN ACT TO EXTEND THE TIME WITHIN WHICH THE CITY OF BOSTON MAY PAY CERTAIN DEBTS.

*Be it enacted, etc., as follows:*

Time extended for payment of certain debts.

SECTION 1. Debts which cities and towns are required by section eight of chapter twenty-nine of the Public Statutes to pay within a period not exceeding ten years, may be made payable by the city of Boston within a period not exceeding twenty years.

SECTION 2. This act shall take effect upon its passage.

*Approved May 11, 1891.*

**Chap.322** AN ACT TO AUTHORIZE THE TOWN OF HOLDEN TO APPROPRIATE MONEY FOR THE PURPOSE OF CELEBRATING THE ONE HUNDRED AND FIFTIETH ANNIVERSARY OF ITS INCORPORATION.

*Be it enacted, etc., as follows:*

Town may appropriate money for celebration of anniversary of its incorporation, etc.

SECTION 1. The town of Holden may, at any special town-meeting called for that purpose within two months after the passage of this act or at any adjournment thereof, grant, vote and appropriate a sum of money not exceeding three hundred dollars, for the purpose of celebrating the one hundred and fiftieth anniversary of its incorporation and of publishing an account of the proceedings of such celebration.

SECTION 2. This act shall take effect upon its passage.

*Approved May 11, 1891.*

**Chap.323** AN ACT RELATING TO THE LOCATION, LAYING OUT AND CONSTRUCTION OF HIGHWAYS IN THE CITY OF BOSTON.

*Be it enacted, etc., as follows:*

Appropriations for locating, laying out and constructing highways in Boston.

SECTION 1. The city of Boston shall annually by ordinary vote appropriate money sufficient to meet the salaries and expenses incurred under sections four, five and six of this act, and any deficiencies of interest and sinking fund requirements to be paid by the treasurer of the city of Boston from the appropriation herein specified, as pro-

vided in section eighteen, and may by such vote appropriate one or more additional amounts in gross for carrying out the other provisions of this act; the money so appropriated shall be obtained from the sales of the bonds and certificates provided for in section two and shall constitute an appropriation for the purposes of this act; the total of all amounts so appropriated in any one year shall not exceed one million dollars, nor shall the total amount of all such bonds and certificates outstanding ever be more than three million dollars in excess of the sinking funds established for the payment of said debt.

SECTION 2. The treasurer of said city shall from time to time, on the request of the mayor in writing, issue, to the amount or amounts so appropriated, negotiable bonds or certificates of indebtedness, payable in ten years from their date and bearing interest at a rate not exceeding four and one half per cent. per annum, payable semi-annually, and fixed by said treasurer with the approval of the mayor, and shall sell said bonds and certificates or any part of them, and credit the proceeds thereof, except premiums, to the aforesaid appropriation.

Treasurer to issue from time to time negotiable bonds on request of the mayor.

SECTION 3. The aforesaid bonds or certificates, except those issued to meet the aforesaid appropriation made during the year eighteen hundred and ninety-one, shall not be considered or reckoned in determining the authorized limit of indebtedness of said city, under the provisions of section four of chapter twenty-nine of the Public Statutes as modified and amended by section two of chapter one hundred and seventy-eight of the acts of the year eighteen hundred and eighty-five.

Certain bonds not to be reckoned in determining limit of indebtedness.

SECTION 4. The mayor of said city shall appoint, subject to confirmation by the board of aldermen of said city, three able and discreet men, who shall constitute a board of said city, to be known as the board of survey, and who shall hold office for the term of three years from the first day of May in the year eighteen hundred and ninety-one, or until the work which they are hereby authorized to do is sooner completed. Any vacancy occurring shall be filled by an appointment as aforesaid, for the remainder of the unexpired term. The chairman of said board shall be designated by the mayor and shall receive a salary of forty-five hundred dollars, and each of the other members a salary of four thousand dollars, per year. The provisions of chapter two hundred and sixty-six of the acts of the year

Board of survey to be appointed.

Salaries.

Provisions of 1885, 266, to apply.

eighteen hundred and eighty-five shall, except as herein modified, apply to said board and to the members thereof.

Board to cause plans to be made of such territory as they deem necessary.

SECTION 5. The board of survey shall, with all reasonable dispatch, cause to be made under its direction, plans of such territory or sections of land in said city as said board may deem necessary, showing thereon the location of such highway or the locations of such highways, whether already laid out or not, as said board shall be of opinion the present or future interests of the public will require in each territory, showing clearly the directions, widths and grades of each highway, and may employ such assistants and incur such expenses as it may deem necessary therefor. Said board, before making any such plan, shall give a public hearing as to the locations, directions, widths and grades for the highway or highways in the territory to be shown on the plan, after advertising a notice of such hearing twice a week for two weeks in succession in at least two daily newspapers published in said city, the last advertisement to be at least two days before such hearing. Each of said plans on its completion shall be marked as being made under the provisions of this act, signed by said board and by the mayor, and filed in the office of the city surveyor of said city. Every way sixty feet or less in width shown on any of said plans, if it has not been laid out as a highway or has not been constructed or is not being constructed at the time of filing as aforesaid, shall thereafter be laid out as a highway or constructed only as provided in section ten, and every such way more than sixty feet in width may be laid out and constructed as provided in said section, or in any other manner prescribed by law for laying out or for constructing highways in said city.

Plans to be filed in the office of the city surveyor.

Board may enter upon lands to make surveys, etc.

SECTION 6. Said board, its officers and agents, may, so far as they deem it necessary in carrying out the aforesaid provisions, enter into and upon any lands, and there make such examinations and surveys and place and maintain such monuments and marks, as and where they may deem necessary; and any person injured in his property by such entry or by such placing and maintaining may have a jury, and may have the damages sustained by such injury determined by such jury and paid in the manner and under the rules of law provided for obtaining juries and for determining and paying damages sustained in laying out highways in the city of Boston.

Damages.

SECTION 7. The preceding sections shall not be construed to authorize any taking or condemnation of land, or to render said city liable for damages of any kind, except for making entries upon land and for placing and maintaining monuments and marks as provided in section six, nor to authorize the city of Boston to work or construct any way located on any of said plans, until such way shall have been thereafter laid out as a highway under other provisions of law, or until the passage of an order as provided in section ten.

Liability of the city for damages.

SECTION 8. The powers of the board of street commissioners of said city in regard to highways shall not be abridged by this act in any manner except as provided in this section and in section ten, and the powers given them in this act shall be in addition to the powers now exercised by them. No person or corporation shall in said city, after the passage of this act, prepare or open for public travel any way, unless its location, directions, widths and grades are satisfactory to and have been approved in writing by said board of street commissioners, but all highways in the territory shown on any of said plans laid out after the filing of the plan as aforesaid shall be in accordance with the locations, directions, widths and grades shown thereon; and no public sewer, drain, water pipe or lamp shall be placed in, or public work of any kind done on, any way in any such territory other than in or on the ways shown on the plan or plans of such territory: *provided, however,* that this provision shall not prevent the laying of a trunk sewer or a water or gas main as engineering demands shall require.

Powers of the board of street commissioners.

SECTION 9. If any building shall hereafter be placed or erected in said city at a grade other than the grade therefor, recorded in the office of the city surveyor, and which the city surveyor shall furnish on the request of the owner of the land on which the building is to be placed, or if any building shall be placed or erected within the boundaries of any way shown on any of the plans hereinbefore provided for, after the filing of the plan as aforesaid, and not removed at the expense of the owner when required by said board of street commissioners, no damage occasioned to the estate, of which the land on which the building was so placed formed a part at the date of the first advertisement aforesaid, or to any part of said estate, by the subsequent establishment or change of the grade of

When buildings are erected at other than prescribed grade and not removed when ordered, no damage to be allowed if grade is changed.

any highway, shall be recovered by, or be paid to, the owner of the whole or of any part of such estate.

SECTION 10. Whenever a majority in interest, determined as provided in section eleven of this act, of the owners of lands lying within one hundred and twenty-five feet of any way shown on any plan filed as aforesaid, shall petition the board of street commissioners of said city to order the construction of such way, or whenever the city council shall authorize said board to order the construction of any such way, said board may proceed in the manner provided for laying out highways in said city, and may, with the approval of the mayor, if of the opinion that the public interests so require, pass an order laying out such way as a highway, if it has not already been so laid out, and if already so laid out but not constructed, or if laid out under the provisions of this section, may pass any order for the construction of the same; and any person injured in his property thereby may have the same remedies as are now provided by law for persons so injured by the laying out of highways in said city: *provided, however*, that said board shall not pass any such order unless there shall have been paid to said city such sum of money, if any is needed therefor, as will when added to the total average assessed value for the preceding three years of all the lands which will be liable for the assessable cost of said work, as provided in section fifteen, exceed by at least twenty-five per cent. the cost as estimated by them of the laying out and of the work to be done under the order. Said board shall also in said order determine, in accordance with the certificate of the superintendent of streets of said city, the kind of surface or pavement for said highway, the height and width, and the materials for the edgestones and sidewalks, the locations, sizes and materials for the sewers, catch-basins and all other connections, and, in accordance with the certificate of the water supply department, the size for the water pipes and connections; said board shall also determine in said order the size for the gas pipes and connections to be laid in said highway, and if the gas company in said city shall certify to the proper size for said gas pipes and their connections, the said board shall make its determination in accordance with said certificate.

SECTION 11. The aforesaid interest of each owner shall be determined by the number of square feet of land which he owns lying within one hundred and twenty-five

Powers and duties of street commissioners in laying out highways.

Proviso.

Board to determine kind of surface for highway, materials for edgestones and sidewalks, size of sewers, water pipes, gas pipes, etc.

Method of determining the interest of each owner.

feet of, and measuring from the side or sides on which his lands lie, of the way named in the petition, or if there is another way less than two hundred and fifty feet distant from the aforesaid way and having the same general direction, then such interest shall be determined by the number of square feet of land which he owns within a line drawn half way between the two ways.

SECTION 12. The superintendent of streets of said city shall forthwith after the passage of the aforesaid order, give public notice by advertisement twice a week for two weeks in succession in at least two daily newspapers published in said city that he is about to do the work contemplated in said order, and that all work which is to be done in the highway shall be done before a certain day specified in the notice; shall send a copy of such notice to the gas company and the water supply and lamp departments in said city at least three weeks before the aforesaid specified day, and shall with all reasonable dispatch proceed in the manner provided in chapter four hundred and eighteen of the acts of the year eighteen hundred and ninety, for departments of said city when authorized to erect new buildings, to construct the highway and to lay the sidewalks and the sewers, and the catch-basins and all other connections therein, in accordance with the said order, and connect the said sewers with the sewers then in use; and if the gas company authorized to lay gas pipes in the highway shall neglect or refuse to lay its pipes as determined in said order within the time specified therefor, he shall lay the said pipes as so determined and connect them with the pipes then in use.

Superintendent of streets to give public notice of work about to be done.

SECTION 13. Said superintendent shall not do, or permit to be done, any of the work above described in any year after the fifteenth day of November, unless he certifies, in a writing approved by the mayor and kept on file in the office of said superintendent, that public necessity requires the work to be done. After the construction of the highway said superintendent shall not, for the space of two years, permit any department or person to disturb the surface thereof, except in case of obvious necessity, to be certified to in a writing to be approved and kept as hereinbefore provided, and except in cases of breaks or leaks in pipes, sewers or wires, but after said two years said superintendent may in his discretion permit openings to be made.

Not to permit any of the work to be done after the fifteenth of November, unless, etc.

Board of street commissioners to determine the assessable cost incurred.

SECTION 14. Said board of street commissioners shall forthwith, after the construction of the highway, determine the cost incurred in carrying out said order, including the expenses of taking land and all other expenses of the laying out and the expenses of all work done and materials furnished by the superintendent of streets as certified by him, excluding water pipes, gas pipes and connections and the laying thereof, and said cost shall be the assessable cost of the work done under said order.

Assessable cost to be repaid by the owners of the land.

SECTION 15. The said assessable cost of the work done under said order shall be repaid with interest to the city, by the owners of the several parcels of land described in section eleven, and the amount to be paid for each parcel, for which the parcel shall be liable and for which an underlying lien shall attach to the parcel, shall be determined by said board of street commissioners in accordance with the proportions in which said board shall determine that the said parcels of land are increased in value by the carrying out of the aforesaid order. The cost, if any are laid by said superintendent of streets, of the gas mains and connections and the laying thereof, as determined by said superintendent, shall be repaid to said city by the gas company owning the pipes with which the gas pipes laid in said streets are connected.

Cost of gas mains, etc., to be determined by the superintendent of streets.

Duties of the board of assessors.

SECTION 16. The board of assessors of said city, if the amount of the aforesaid assessable cost for which any parcel of land aforesaid is liable, determined as provided in section fifteen, is not paid before the last day of September next succeeding said determination, shall include a sum equal to nine per cent. of such amount plus one year's interest on the whole of said amount at the rate of five per cent. per annum, in the next and succeeding annual tax bills issued for the tax on the said parcel until ten such sums have been paid, or if such parcel has been subdivided and a plan thereof filed in the registry of deeds and the assessors notified in writing of such filing, said board shall apportion the said sum, including said interest, to said subdivisions in proportion to their areas, and include the several apportionments in the next and succeeding annual tax bills issued for the taxes on the respective subdivisions; said board shall issue tax bills for such sums or apportionments for any parcels or subdivisions for which no tax bill would otherwise be issued.

Every such sum or apportionment in a tax bill shall be levied, collected and paid into the city treasury, without abatement, as if a part of, and in the same manner as, the city taxes on real estate.

SECTION 17. The owner of any parcel of land or sub-division aforesaid, may at any time pay to said city the balance of the amount of the said assessable cost for which his parcel or subdivision is liable, remaining due after deducting therefrom the several sums or apportionments, exclusive of interest, included in tax bills as provided in section sixteen, and his parcel or subdivision shall then be relieved from further lien and liability therefor, and whenever the payments toward said assessable cost, with the sum paid under the provisions of section ten, plus the interest on such sum at the rate of five per cent. per annum from the date of payment thereof, shall be equal to the whole of said assessable cost, all further liability of, and lien on, any and all parcels of land liable for such assessable cost shall cease.

Payments by  
the owner of  
land.

SECTION 18. The treasurer of said city shall, from the premiums, amounts, sums and apportionments received during any financial year of said city under the provisions of sections two, ten, fifteen, sixteen and seventeen, pay the interest on the aforesaid bonds and certificates accruing during that year, and shall pay over any surplus of the moneys so received to the board of commissioners of sinking funds of said city, to be by them credited to the sinking funds established for the debts incurred under section two. If the amount so received in any such year is insufficient to meet the interest aforesaid, said treasurer shall, unless other provision is made by said city, pay the deficiency from the aforesaid appropriations; and unless said city otherwise orders, shall, when said bonds and certificates become due, pay from said appropriation any deficiency existing in the sinking funds established to pay the same, and no moneys shall be raised for interest or sinking fund requirements on said bonds and certificates except as herein provided, unless ordered by said city.

Duties of the  
treasurer.

SECTION 19. If the gas company is aggrieved by the determination of the amount to be repaid by it to the city, as provided in section fifteen, and shall pay said amount into the city treasury within ten days after such determination, it may recover of said city, in an action of contract brought within three months after said determination, any

If gas company  
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excess of said amount over the amount which it should have paid thereunder, with interest thereon at the rate of five per cent. per annum.

Location of highway not to be made over the common, etc.

SECTION 20. This act shall not be construed to authorize the location or laying out of any highway or public place on or over the common, public garden, or any public park, or over any burial ground.

Court, in equity, may enforce, restrain, etc.

SECTION 21. Any court having jurisdiction in equity shall also have such jurisdiction to enforce and to restrain the violation of the provisions of this act.

SECTION 22. This act shall take effect upon its passage.

*Approved May 11, 1891.*

**Chap. 324** AN ACT TO AUTHORIZE THE CITY OF BOSTON TO INCUR INDEBTEDNESS OUTSIDE ITS DEBT LIMIT FOR THE PURPOSE OF COMPLETING THE NEW PUBLIC LIBRARY BUILDING.

*Be it enacted, etc., as follows:*

City may incur additional indebtedness to an amount not exceeding \$1,000,000.

SECTION 1. The city of Boston, for the purpose of enabling the trustees of the public library of the city of Boston to complete the new public library building in Copley square in said city, may, in addition to all indebtedness heretofore authorized, incur indebtedness and may authorize the city treasurer of said city to issue from time to time as the said trustees shall request and the mayor of said city approve, bonds or certificates of indebtedness to an amount not exceeding one million dollars. Such bonds shall be payable in thirty years from their date, and shall bear interest at a rate not to exceed four per cent. per annum payable semi-annually and fixed by the said treasurer with the approval of the mayor.

Not to be reckoned in determining limit of indebtedness.

SECTION 2. The indebtedness incurred under this act shall not be considered or reckoned in determining the authorized limit of indebtedness of the city of Boston under the provisions of section four of chapter twenty-nine of the Public Statutes as modified and amended by section two of chapter one hundred and seventy-eight of the acts of the year eighteen hundred and eighty-five.

Treasurer to sell bonds from time to time as required.

SECTION 3. Said treasurer shall sell such bonds or certificates, or any part thereof, from time to time as required, and retain the proceeds thereof in the treasury of said city, and pay therefrom the expenses incurred by the said trustees for the purposes aforesaid, except premiums received by him from the sale of said bonds or certificates, which he shall pay to the board of commis-

Premiums to be paid into the sinking funds.