

aforesaid under this act who fails to agree with said city as to the amount of damages sustained may have the same assessed and determined in the manner provided by law when land is taken for the laying out of highways, on application at any time within the period of one year from the taking of such lands or flats or the doing of other injury under the authority of this act; but no such application shall be made after the expiration of said period. Any person sustaining damages as aforesaid under this act who agrees with said city upon the amount of damages sustained by him shall be paid the amount of said damages by said city forthwith. The respective rights and remedies of persons having different, separate or contingent interests or estates in the same property, as to the disposition of the damages awarded or agreed to under this act, shall be the same in all respects as are provided by law when land is taken for the laying out of highways.

Work to be executed under supervision of harbor and land commissioners.

SECTION 4. The city of Salem before beginning to fill or dredge any flats taken under the authority of this act shall give written notice to the board of harbor and land commissioners of the work proposed, and shall submit to said board plans of the flats proposed to be filled or dredged, showing the mode in which the work is to be performed; and no such work shall be commenced until the plans and the mode of performing the work have been approved in writing by said board; and all such work shall be executed under the supervision of said board.

Streets may be laid out over lands and flats.

SECTION 5. The city council of said city may lay out, in the manner provided by the charter of said city, streets and ways over any of the lands or flats referred to in this act.

Subject to acceptance by city council.

SECTION 6. This act shall take effect upon its acceptance by the city council of the city of Salem.

Approved April 29, 1884.

Chap. 195

AN ACT CONCERNING ALEWIFE BROOK AND CERTAIN SEWERS IN CAMBRIDGE AND SOMERVILLE.

Be it enacted, etc., as follows:

City to construct an intercepting sewer.

SECTION 1. The city of Cambridge shall construct an intercepting sewer of sufficient capacity, and by means thereof shall conduct the sewage of the Concord Avenue, Spruce Street and North Avenue sewers in said city, and of any sewer at any time discharging into either of said

sewers, or into said intercepting sewer (provided, however, this shall not include any other than that within the natural drainage area of Alewife Brook), to some convenient spot upon the poor farm in said city; shall there construct a storage basin for the temporary deposit of such sewage, and by means of pumps or otherwise shall raise such sewage to a sufficient height to discharge the same by means of a connecting sewer, which connecting sewer shall not exceed twelve inches in diameter, at a convenient point in the sewer in Newbury Street, in the city of Somerville; shall construct such connecting sewer, and shall so discharge the said sewage for the term of three years from the first day of September next, the connection with the said Somerville sewer to be made on or before said first day of September: *provided, however*, that, during repairs upon any Somerville sewer into which the Cambridge sewage shall be so discharged, pumping shall be discontinued if the city engineer of Somerville shall so request of the city of Cambridge; and also, that at some point in the intercepting sewer, to be determined by the city engineer of Somerville, there shall be constructed by the city of Cambridge an automatic shut-off so arranged as to cut off the connection of the Cambridge sewers which may empty therein with the Somerville sewers during severe storms and when the Cambridge sewers at the shut-off are running more than half full, said shut-off to be built according to a design approved by the city engineer of Somerville, and to be constructed to his satisfaction; but the city of Cambridge may, during any such discontinuance and during such times as the connection of the Cambridge sewers with the Somerville sewers may be so cut off, discharge its sewage into Alewife Brook: *provided, however*, that if this method of disposing of said sewage be adjudged impracticable, as hereinafter provided, then the obligation imposed by this section shall be void, *and provided further*, that whenever the city of Cambridge shall adopt and carry into active operation any other method of disposing of the sewage of its sewers above named, and sewers at any time discharging therein, than by a discharge into Alewife Brook, the obligation imposed by this section shall be void.

Storage basin to be constructed.

Pumping may be discontinued during repairs.

Proviso.

Proviso.

SECTION 2. For the purposes named in the preceding section, the city council of Cambridge shall have the same right to take private land in Somerville as it now has to

City council of Cambridge may take private land in Somerville.

take land for sewers in Cambridge, and all the proceedings of such taking shall be conducted in the same manner as though such land were in Cambridge, and all persons and corporations suffering damage in their property by reason of such taking shall have the same rights and remedies for ascertaining and recovering the amount of such damage as in the case of land taken for sewers in Cambridge.

If method is deemed impracticable, obligation imposed in first section to be void.

SECTION 3. If at any time after the construction of the works required by the first section hereof, and actual trial thereof, that method of disposing of said sewage be deemed by the state board of health, lunacy and charity, after such notice and hearing as said board may order, impracticable without great and unreasonable expense, or if by reason of the proceedings under the twelfth section hereof the city of Cambridge is prevented from discharging its sewage into Somerville sewer as aforesaid, then the obligation imposed by the first section hereof shall be void.

After three years, works may be discontinued.

SECTION 4. After the expiration of three years from the first day of September next, the city of Cambridge may at its option continue or discontinue the works prescribed in the first section hereof; said continuance however to be for a term of three years and no more, except with the consent of the city of Somerville, and subject to the same conditions as the original term.

Annual payments to the city of Somerville.

SECTION 5. So long as the city of Cambridge discharges its sewage into the sewer of Somerville in the manner herein before prescribed, it shall pay annually to the city of Somerville upon the first day of September, the first payment to be made on the first day of September, A. D. eighteen hundred and eighty-five, the sum of three thousand dollars, and in the same ratio for any part of a year, and during the same period shall dispose of the sewage and storm water of the city of Somerville emptying into any sewer of Cambridge under the provisions of this act, in the same manner that it disposes of its own sewage and storm water in the same sewer, and without any cost or charge to the city of Somerville.

Description of territory in Somerville to be drained.

SECTION 6. The city of Somerville for the purposes of draining the following described territory situated in Somerville, namely:—commencing at a point on the boundary line between Cambridge and Somerville distant one hundred sixty-eight feet southeasterly from a stone

bound marking said boundary line, and numbered twenty-two; thence running southeastwardly by said boundary line to the southeasterly line of Meacham street; thence turning and running northeastwardly by said southeasterly line of Meacham street to the Middlesex Central Railroad; thence continuing in the same direction and crossing said railroad to a point one hundred feet southwestly from the southwestly line of Holland street; thence turning and running northwestwardly by a line parallel with said southwestly line of Holland street and one hundred feet distant therefrom, to the southeasterly line of Elmwood street; thence turning and running southwestwardly by said southeasterly line of Elmwood street to a point in line with the prolongation of the southwestly line of Mead street; thence turning and running northwestwardly by said southwestly line of Mead street prolonged, crossing Elmwood street and Cameron avenue, and by the said southwestly line of Mead street to the northwestly line of Moore street; thence in the same direction crossing Newbury street and Clarendon avenue to the land owned by the city of Cambridge; thence southwestwardly by said land of the city of Cambridge, to the point of beginning, — may connect any sewer upon such territory with any sewer in Cambridge; and for that purpose the city council of Somerville shall have the same right to take private land in Cambridge as it now has to take land for sewers in Somerville, and all the proceedings of such taking shall be conducted in the same manner as though such land were in Somerville, and all persons or corporations suffering damage in their property by reason of such taking shall have the same rights and remedies for ascertaining and recovering the amount of such damage as in the case of land taken for sewers in Somerville.

Territory to be drained.

City council of Somerville may take private land in Cambridge.

SECTION 7. Each of said cities may, for the purposes of this act, carry its pipes and drains under any street, railroad, highway or other way in such a manner as not unnecessarily to obstruct the same, and may enter upon and dig up such street, railroad, highway or other way for the purpose of laying, maintaining and repairing any such pipes and drains, and may do any other things necessary or proper in executing the purposes of this act; but whenever either of said cities enters upon or digs up for such purposes any road, street or way which is outside its own territorial limits, it shall be subject to such reason-

May dig up streets, etc.

Regulations to be prescribed by the mayor and aldermen.

able regulations as may be prescribed by the mayor and aldermen of the city wherein such street or way may be located, and shall restore said road, street or way to as good order and condition as it was in before such digging was commenced, shall perform the work in such manner and with such care as not to render any road, street or way in which such pipes are laid unsafe or unnecessarily inconvenient to the public travel thereon, and shall at all times indemnify and save harmless any city which is liable to keep in repair any road, street or way aforesaid, against all damages which may be recovered against it, and shall reimburse to it all expense which it shall reasonably incur by reason of any defect or want of repair in such road, street or way caused by the maintenance, repair or replacing of said pipes, or by reason of any injury to persons or property caused by any defect or want of repair in any such pipes: *provided*, that such city has notice of any claim or suit for such damage or injury, and an opportunity to assume the defence thereof. Either city shall have the right to use without compensation any sewer built under this act within its own territorial limits.

Liability for damages.

Proviso.

When discharge of sewage shall cease.

SECTION 8. Whenever the city of Cambridge lawfully ceases to discharge sewage into the sewer of the city of Somerville in the manner prescribed by the first section hereof, the city of Somerville shall cease to discharge its sewers into the sewers of the city of Cambridge, as provided in the sixth section hereof.

Drainage not to be discharged into Alewife Brook.

SECTION 9. No person or corporation, public or private, shall, after the first day of September next, discharge or cause to be discharged either directly or indirectly into Alewife Brook any drainage, refuse or polluting matter of such quality and quantity as either by itself or in connection with other matter shall corrupt the waters of said brook, or tend to make the brook a nuisance deleterious to public health: *provided, however*, that this prohibition shall not extend to the sewage from the sewers named in the first section hereof, nor to sewage from lands now emptying sewage into said brook, in case the method therein prescribed for disposing of the same be deemed impracticable as aforesaid by the state board of health, lunacy and charity; but this proviso shall not be construed to give to the city of Cambridge or any persons or corporation any right in addition to what it has at the date of the passage of this act, if any, to drain into said brook.

SECTION 10. Nothing herein contained shall be construed to prevent the city of Cambridge from discharging the storm water of its sewers, including those named in the first section hereof, into said brook, nor to destroy or impair prescriptive rights of drainage or discharge, if any, to the extent to which they lawfully exist at the date of the passage of this act; and nothing in this act contained shall be construed to authorize the pollution of the waters of said brook in any manner now contrary to law.

Discharge of storm water.

SECTION 11. The mayor and aldermen of Cambridge may permit any persons owning lands in Cambridge, now draining into Alewife Brook, to drain such lands or any part thereof into either of the sewers in Cambridge named in the first section hereof, upon such terms and conditions as they may prescribe. If within fourteen days after application to them they do not grant to any such person permission thus to drain, or if such person be dissatisfied with the terms and conditions prescribed by the mayor and aldermen, he may appeal to the state board of health, lunacy and charity, which board, after such notice as it may order and a hearing, shall decide whether such person may enter either of the sewers and what sum either in gross or at stated periods he shall pay to Cambridge therefor, and what other terms and conditions, if any, shall be imposed on account of such entry, which decision shall be final and binding upon all parties, one-half of said sum to be paid to the city of Somerville.

Lands in Cambridge draining into Alewife Brook may be allowed to drain into sewers in Cambridge.

SECTION 12. If at any time after the expiration of two years from the first day of September next, the mayor and aldermen of Somerville shall be of opinion that the operation of the works or the discharge and flowage of the Cambridge sewage into and through the sewer of the city of Somerville, as provided for by this act, is detrimental to the health of the inhabitants of said city of Somerville, or any number thereof, said mayor and aldermen may apply to any justice of the supreme judicial court, in vacation or at any regular term thereof in any county, who shall forthwith, and after such notice as said court or any justice thereof may deem proper, appoint three capable and disinterested persons to sit as a commission of inquiry, whose duty it shall be to hear any evidence that may be produced before them touching the effect of the operation, discharge and flowage aforesaid upon the health of the inhabitants of said city of Somerville or any part thereof;

If discharge of Cambridge sewage through Somerville sewer is detrimental to health, commission may be appointed.

Commission to report to the court.

said commission prior to said hearing shall order such public notice thereof as may seem proper to them, and if they are of opinion that the works provided for in section one of this act cannot be longer operated, or the sewage therein provided for longer discharged into and conveyed through the sewers of said city of Somerville, without detriment as aforesaid to the public health, they shall report accordingly to said court, and said court shall accept, re-commit or reject said report, or enter such order, decree or judgment in the premises as may seem just and proper.

State board of health may order persons, etc., to desist from acts affecting public health, etc.

SECTION 13. Whenever a violation of any of the provisions of this act affecting the public health or the water supply of any city is committed, the state board of health, lunacy and charity may, if in its judgment the public health requires, order any person or corporation, public or private, to cease and desist from such violation and to remedy the pollution, or to cleanse or purify the polluting substances in such a manner and to such a degree that they shall be no longer deleterious to the public health, before being cast or allowed to flow into said brook: *provided*, that before making such order the said board shall assign a time and place for hearing all parties interested, and shall give such parties an opportunity of being heard, and the orders herein before provided shall not be issued until after such notice and hearing; *and provided also*, that upon the application of any city to said board alleging the violation of any of the provisions of this act, and the pollution of its water supply thereby, said board shall grant a hearing, upon due notification to all parties interested, and upon proof of such violation shall issue the order or orders already mentioned in this act.

Parties to have a hearing.

Proviso.

Injunction may be issued by S. J. C.

SECTION 14. The supreme judicial court or any one of its justices, in term time or vacation, shall have power to issue an injunction to enforce any order referred to in this act.

Order to be made in writing.

SECTION 15. Every such order of the board of health, lunacy and charity shall be made in writing, and served by any person competent to serve a notice in a civil suit, personally, upon the person found guilty of violation as aforesaid, or his authorized agent, or a copy of the order may be left at the last and usual place of abode of such person, or his agent, if he has any such place of abode within the state known to the officer. If the residence of

Service of order.

the owner or agent is unknown to the officer, or without the state, the order may be served by publication in one or more newspapers in such manner and for such time as said board may order. Any party aggrieved by any such order shall have the right of appeal to a jury, and be subject to sections eighty-eight and ninety of chapter eighty of the Public Statutes; during the pendency of the appeal, the pollution against which the order has issued shall not be continued contrary to the order, and upon any violation of the same the appeal shall be forthwith dismissed.

Right of appeal to a jury.

SECTION 16. Nothing herein before contained shall be construed to exclude the jurisdiction of the supreme judicial court sitting in equity according to the usual course and practice of such court.

Jurisdiction of S.J.C. in equity.

SECTION 17. This act shall take effect upon its passage, but shall become void unless accepted by the city council of each of said cities within thirty days thereafter.

Subject to acceptance within thirty days.

Approved April 29, 1884.

AN ACT TO CONFIRM THE ORGANIZATION OF THE SOUTH POCASSET CEMETERY ASSOCIATION, AND TO ENABLE SAID CORPORATION TO HOLD CERTAIN REAL ESTATE.

Chap. 196

Be it enacted, etc., as follows:

SECTION 1. The organization of the South Pocasset Cemetery Association with all acts done under said organization, which societies of a similar character may legally do, are hereby ratified and confirmed.

Organization confirmed.

SECTION 2. The said corporation may take and hold the real estate known as the "Old Cemetery lot" situate in that part of the town of Bourne called Pocasset adjoining the property of said corporation and containing one hundred and eighteen rods for burial purposes, subject to all laws that are or hereafter may be in force relating to similar societies.

May take and hold the "Old Cemetery lot."

SECTION 3. Any person claiming to be aggrieved by the provisions of this act, may at any time within one year after this act takes effect, apply by petition to the superior court for the county of Barnstable, and his damages, if any, shall be assessed and determined by and under the direction of said court, and shall be paid by said South Pocasset Cemetery Association.

Assessment of damages.

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

Approved April 30, 1884.