

SPECIAL STATUTES

OF THE

Commonwealth of Massachusetts

RELATING TO THE

CITY OF BOSTON,

PASSED PRIOR TO JANUARY 1, 1888.

BEING THE SECOND PART OF THE COLLECTION;
WITH A SEPARATE INDEX.

Published by Order of the City Council.



BOSTON:

ROCKWELL AND CHURCHILL, CITY PRINTERS, NO. 39 ARCH STREET.

1887.

SECT. 10. The city clerk of Newton shall certify to the secretary of the commonwealth the acceptance by the city council of Newton, immediately after the same has been accepted.

City clerk to certify acceptance to secretary of the commonwealth.

SECT. 11. So much of this act as authorizes the city council of Newton to accept the same shall take effect upon its passage, and if accepted as herein provided it shall take effect on the first day of July, in the year eighteen hundred and seventy-five.

When to take effect.

May 5, 1875.

1875. — CHAPTER 185.

AN ACT FOR THE LAYING OUT OF PUBLIC PARKS IN OR NEAR THE CITY OF BOSTON.

Be it enacted, etc. :

SECTION 1. The mayor of the city of Boston, with the approval of the city council, shall, as soon as may be after this act shall take effect, appoint three competent commissioners, who shall hold their offices until the expiration of terms of two, three, and four years, respectively, from the first day of May, in the year eighteen hundred and seventy-five. The mayor shall, with like approval, before the first day of May in each year after the year eighteen hundred and seventy-six, appoint a commissioner, to continue in office for the term of three years from said day. No person shall be a commissioner who is at the same time a member of the city council of said city; and any commissioner may at any time be removed by a concurrent vote of two-thirds of the whole of each branch of said council.

Three commissioners to be appointed by the mayor of Boston.

SECT. 2. Said commissioners shall constitute a board of park commissioners, and any vacancy occurring in said board shall be filled for the residue of the term of the commissioner whose place is to be filled, in the same manner in which such commissioner was originally appointed. Said commissioners shall receive such compensation as the city council shall determine.

Board of park commissioners. Vacancies.

SECT. 3. Said board shall have power to locate, within the limits of the city of Boston, one or more public parks; and, for that purpose, from time to time, to take in fee, by purchase or otherwise, any and all such lands as said board may deem desirable therefor, or to take bonds for the conveyance thereof to said city; to lay out, improve, govern, and regulate, any such park or parks, and the use thereof; to make rules for the use and government thereof, and for breaches of such rules, to affix penalties not exceeding twenty dollars for one offence, to be imposed by any court of competent jurisdiction; to appoint all necessary engineers, surveyors, clerks, and other officers, including a police force to act in such parks; to define the powers and duties of such officers, and fix the amount of their compensation; and generally to do all needful acts for the proper execution of the powers and duties granted to, or imposed upon, said city, or said board, by this act: *provided, however,* that no land shall be taken, or other thing, involving an expenditure of money done, until an appropriation, sufficient to cover the estimated expense thereof, shall have been made by a vote of two-thirds of each branch of the city council of said city.

May locate, etc., one or more parks in the city.

To make rules for government of parks.

To appoint engineers and police force.

No land to be taken until sufficient appropriation is made.

SECT. 4. Said board shall, within sixty days after the taking of any land under this act, file in the registry of deeds for the county in which the land is situated, a description thereof, sufficiently accurate for identifying the same.

To file in registry of deeds a description of the land taken.

SECT. 5. Said board shall estimate and determine all damages sustained by any persons by the taking of land or other acts of said

To estimate and determine all damages.

board in the execution of the powers vested in them by this act; but any party aggrieved by any such determination of said board, may have his damages assessed by a jury of the superior court, in the same manner as is provided by law, with respect to damages sustained by reason of the laying out of ways in the city of Boston.

Fee of lands taken to vest in city.

SECT. 6. The fee of all lands taken or purchased by said board under this act shall vest in the city of Boston, and said city shall be liable to pay all damages assessed or determined, as provided in the preceding section, and all other costs and expenses incurred by said board in the execution of the powers vested in them by this act. Said city shall also be authorized to take and hold in trust, or otherwise, any devise, grant, gift, or bequest, that may be made for the purpose of laying out, improving, or ornamenting, any parks in said city.

Real estate may be assessed for betterments. 127 Mass. 408. 151 Mass. 225. 183 Mass. 321.

SECT. 7. Any real estate in the city of Boston, which, in the opinion of said board, shall receive any benefit and advantage from the locating and laying out of a park under the provisions of this act, beyond the general advantages to all real estate in the city of Boston, may, after like notice to all parties interested as is provided by law, to be given by the street commissioners of the city of Boston in cases of laying out streets in said city, be assessed by said board for a proportional share of the expense of such location and laying out: *provided*, that the entire amount so assessed upon any estate shall not exceed one-half of the amount which said board shall adjudge to be the whole benefit received by it.

Proviso.

Assessments to be made within two years.

SECT. 8. No assessment shall be made as provided in the preceding section, except within two years after the passage of the order, the execution of which causes the benefit for which the assessment is made.

To constitute a lien upon real estate.

SECT. 9. All assessments made under this act shall constitute a lien upon the real estate so assessed, to be enforced and collected by the city of Boston in the same manner and with like charges for costs and interest as is provided by law for the collection of taxes; and such assessments may be apportioned by said board in like manner as assessments for benefits caused by the laying out of ways may now be apportioned by the street commissioners of said city.

Party aggrieved may have assessment by a jury.

SECT. 10. Any party aggrieved by any assessment made by said board as aforesaid, may have the amount of the benefit received by his estate assessed by a jury of the superior court in the same manner as is provided by law with respect to damages sustained by reason of the laying out of ways in the city of Boston.

Assessment upon leased real estate to be paid by owner.

Owner may collect additional rent of lessee.

SECT. 11. When an assessment is made under this act upon an estate, the whole or any portion of which is leased, the owner of the estate shall pay the assessment, and may thereafter collect of the lessee an additional rent for the portion so leased, equal to ten per centum per annum on that proportion of the whole sum paid, which the leased portion bears to the whole estate after deducting from the whole sum so paid any amount he may have received for damages to the estate above what he has necessarily expended on such estate by reason of such damages.

Public park loan.

SECT. 12. For the purpose of defraying the expenses incurred under the provisions of this act, the city council of Boston shall have authority to issue, from time to time, and to an amount not exceeding the amount actually expended for the purchase or taking of lands for said parks, bonds or certificates of debt, to be denominated, on the face thereof, the "Public Park Loan," and to bear interest at a rate not exceeding six per centum per annum, and to be payable at such periods as said council may determine. For the redemption of such loan, said council shall establish a sinking-fund sufficient, with the

Sinking fund.

accumulating interest, to provide for its payment at maturity. All sums received for betterments shall be paid into said sinking-fund, until such fund shall amount to a sum sufficient, with its accumulation, to pay at maturity the bonds for the security of which the fund was established.

SECT. 13. No street or way, and no steam or horse railroad, shall be laid out over any portion of any park located under this act, except at such places and in such manner as said board shall approve.

Streets, etc., not to be laid out over park, except as board approves.

SECT. 14. No military encampment, parade, drill, review, or other military evolution or exercise, shall be held or performed on any park laid out as aforesaid, except with the prior consent of said board; nor shall any military body, without such consent, enter or move in military order within the same, except in case of riot, insurrection, rebellion, or war.

Military bodies not to enter park, unless board consent.

SECT. 15. Said board shall annually, in the month of January, make to the city council of Boston a full report of its doings for the preceding year, including a detailed statement of all their receipts and expenditures.

Annual report to be made to city council.

SECT. 16. The mayor of any city adjoining the city of Boston may, with the approval of the city council of such adjoining city, appoint, and the inhabitants of any town adjoining the city of Boston may, at any legal meeting called for the purpose, elect park commissioners, who shall have powers similar to those herein before given to the park commissioners of the city of Boston, to lay out and improve parks within such adjoining city or town, in conjunction or connection with any park laid out in Boston; and any park laid out by the park commissioners of such adjoining city or town shall be subject to similar provisions to those herein before made regarding parks in Boston, and such adjoining city or town shall have similar rights, and be subject to similar duties, to those herein before given to, and imposed upon, the city of Boston in relation to incurring debts for the purpose of defraying expenses incurred under this act: *provided, however*, that the provisions of this section shall not apply to any such adjoining city that has not accepted the same by a vote of a majority of the legal voters at the annual meeting for the choice of municipal officers.

Park commissioners may be appointed in cities adjoining Boston.

Provided.

SECT. 17. This act shall not take full effect unless accepted¹ by a majority of the legal voters of the city of Boston, present and voting thereon, by ballot and using the check-list, at meetings which shall be held in the several wards of said city on the second Wednesday of June in the present year, and upon notice thereof duly given at least seven days before the time of said meetings; and the polls shall be opened not later than nine o'clock in the forenoon and closed not earlier than six o'clock in the afternoon of said day. In case of the absence of any ward officer at any ward meeting in said city, held for the purpose aforesaid, a like officer may be chosen *pro tempore* by hand vote, and shall be duly qualified, and shall have all the powers and be subject to all the duties of the regular officer at said meetings. Said ballots shall be "yes" or "no," in answer to the question, "Shall an act passed by the legislature of the commonwealth, in the year eighteen hundred and seventy-five, entitled 'an act for the laying out of public parks in or near the city of Boston,' be accepted?" Such meetings shall be called, notified, and warned, by the board of aldermen of said city in the same manner in which meetings for the election of municipal officers are called, notified, and warned.

Subject to acceptance by a majority vote.

The ballots given in shall be assorted, counted, and declared, in

Meetings to be notified, etc., as

¹ Accepted June 9, 1875; see Statutes and Ordinances (ed. 1876), p. 590, note. An act for the laying out of one or more public parks in or near the city of Boston, approved May 27, 1870 (St. 1870, c. 283), was rejected.

for election of municipal officers.

Board of aldermen to certify result to secretary of the commonwealth.

Secretary to issue his certificate if act is accepted.

When to take effect.

open ward meeting, and shall be registered in the ward records. The clerk of each ward shall, within forty-eight hours of the close of the polls, make return to the board of aldermen of the number of ballots cast in his ward in favor of the acceptance of this act, and of the number cast against its acceptance. And it shall be the duty of the board of aldermen to certify, as soon as may be, to the secretary of the commonwealth, the whole number of ballots cast in said city in favor of the acceptance of this act, and the whole number cast against said acceptance; and if it shall appear that a majority of the ballots have been cast in favor of acceptance, the said secretary shall immediately issue and publish his certificate declaring this act to have been duly accepted.

SECT. 18. So much of this act as authorizes and directs the submission of the question of its acceptance to the legal voters of the city of Boston shall take effect upon its passage.

May 6, 1875.

1875. — CHAPTER 195.

AN ACT RELATING TO THE MASSACHUSETTS INSTITUTE OF TECHNOLOGY AND THE CITY OF BOSTON.

Be it enacted, etc.:

Land may be granted to Massachusetts Institute of Technology.

Proviso.

Land may be granted to the city of Boston, to be kept open as a public park, etc.

If the land is used for any other purpose, commonwealth

SECTION 1. The governor and council are hereby authorized to grant to the Massachusetts Institute of Technology the right to hold, occupy, and control, such a parcel of land out of the lands of the commonwealth, situated in that part of Boston called the Back bay, as they shall deem a fair equivalent for the similar right with regard to the parcel of land granted to said institute by the one hundred and seventy-fourth chapter of the acts of the year eighteen hundred and seventy-three: *provided*, that said institute shall execute a satisfactory release to the commonwealth of all its right, title, and interest, in and to said last named parcel acquired by it under said act.

The said institute shall thereupon have the right to hold, occupy, and control, the said first-named parcel of land upon the same trusts, and subject to the same limitations, stipulations, and conditions, as are set forth in said act, with reference to the parcel described therein.

SECT. 2. Upon the release to the commonwealth by the Massachusetts Institute of Technology of all its right, title, and interest, in the parcel of land granted to it by the one hundred and seventy-fourth chapter of the acts of the year eighteen hundred and seventy-three, and upon payment by the city of Boston of such a sum to the treasurer of the commonwealth, as may be deemed adequate by the governor and council, the said governor and council are hereby authorized to grant to said city of Boston a perpetual right to hold, occupy, and control, said parcel of land, free from rent or charge by the commonwealth, upon condition that it shall forever be kept open as a public park by said city; said lot to be subject to the limitations and stipulations relative to lands of the commonwealth on the south side of Boylston street, and to be reserved from sale forever; and upon the further condition that the city of Boston shall acquire, by purchase or otherwise, the remainder of the trapezoid of land of which this parcel is a part, lying westerly thereof, and between this parcel and Dartmouth street, and shall appropriate it to the same purpose.

SECT. 3. In case said city shall appropriate the parcel of land hereby granted, to any purpose foreign to that for which it is granted, then the commonwealth, after due notice given, may enter upon said