

PUBLIC PURPOSES - GROUNDS BEING APPROPRIATED
Act of Apr. 21, 1869, P.L. 1194, No. 1189 **Cl. 11**
A FURTHER SUPPLEMENT

To an act, entitled "An Act appropriating ground for public purposes in the city of Philadelphia," approved the twenty-sixth day of March, Anno Domini eighteen hundred and sixty-seven.

Section 1. Preventing Damage to, or Destruction of, Trees and Shrubbery

It shall be lawful for the Fairmount Park Commissioners, in the name of the City of Philadelphia, to prevent and restrain the damage or the destruction of any trees and shrubbery upon any premises within the bounds described for the Fairmount Park by the supplement to the act creating said park, approved the fourteenth day of April, one thousand eight hundred and sixty-eight, (Act of 1868, April 21, P.L. 1083) although the compensation to the owners may not have been assessed or paid. 1869, April 21, P.L. 1194, Sec. 1.

Section 2. Adjustment of Boundaries; Compensation

The Fairmount Park Commissioners shall have power, on behalf of the City of Philadelphia, to adjust the boundaries of said park with any railroad or canal company whose track, tow-path, or canal navigation lies within or is bordering upon said park, and with any other owner bounding upon the park, and to receive and make the proper conveyances or releases in adjusting said boundaries as now provided by law; and if an increase of width be conceded to any company or companies, or individuals, or an exchange of property be made, it shall be at a rate of compensation not less than a just and proportionate share of the cost of the whole property paid at any time by the City of Philadelphia, with lawful interest thereon; which compensation shall be paid into the Sinking Fund of said city for the extinguishment of the park loan. 1869, April 21, P.L. 1194, Sec. 2.

Section 3. That all money raised by the city of Philadelphia by loans for the purchase of grounds for the Fairmount park, and the construction and laying out the same, shall be kept separately by the treasurer of the said city, and shall be appropriated and paid for no other purposes.

Section 4. Taking Possession before Damages are Assessed or Paid

It shall be lawful for the said Park Commission, after having given sixty days' notice of an intention so to do, to take actual possession of any lands or property included within the boundaries of the park, although the compensation or damages for the said grounds or property may not have been assessed or paid; and the City of Philadelphia shall thereupon become liable for the payment of the compensation or damages which may be awarded for taking such grounds, as of the date when said grounds and property were actually taken into possession, and with interest from such date: Provided, That before any such notice be given, as hereinabove provided, the said park commissioners shall have made an application to the court for the appointment of a jury according to the provisions of law. 1869, April 21, P.L. 1194, Sec. 4.

Section 5. Change of Boundaries in Adjusting Grades of Street; Compensation

If in laying out and adjusting the grades of the boundary avenues of Fairmount Park the configuration of the ground shall make it advantageous to vary from the boundaries as now authorized by law, said park commissioners are hereby authorized

and empowered to negotiate and agree with any owner or owners of ground bounding upon the park, and so required for the proper location and adjustment of said boundary avenues, as to the price and conveyance thereof, and to that end may take and receive additional ground or make exchanges or releases as the case may require: Provided, That the area of the said park shall not be increased thereby; in case of inability from any cause to fix the price of any land, or to adjust the terms of any exchange of ground required for the purpose aforesaid, the same shall be determined by a jury, appointed for the purpose, in the manner provided in the act (Act of 1867, March 26, P.L. 547) to which this is a supplement. 1869, April 21, P.L. 1194, Sec. 5.

Section 6. Care and Management of Other Grounds

It shall and may be lawful for the city councils to confer upon said Park Commission, and for the commission to accept the care and management, from time to time, of any other grounds now appropriated or hereafter to be appropriated for park purposes, within the City of Philadelphia. 1869, April 21, P.L. 1194, Sec. 6.

Section 7. Commissioners and Officers not to Receive Compensation from Person Having Claims

No park commissioner, and no solicitor acting for said commission, and no person exercising any office, or holding any appointment under such commission, shall receive, either directly or indirectly, any compensation for any service rendered to any party having any claim of any kind, whether for land damages, or in any other manner arising against said commission, or the city, excepting only the proper salary or compensation, if any, attached to his office, and any offense against the provisions of this section shall be deemed a misdemeanor, and punishable by expulsion from office. 1869, April 21, P.L. 1194, Sec. 7.

Section 8. The first section of an act of assembly, approved the fourteenth day of April, Anno Domini one thousand eight hundred and sixty-eight, entitled "A supplement to an act, entitled 'An act appropriating ground for public purposes in the city of Philadelphia,' approved the twenty-sixth day of March, Anno Domini one thousand eight hundred and sixty-seven," shall be amended so that the same, in describing the boundaries of Fairmount park, shall read as follows: "Beginning at a point to the north-easterly line of property owned and occupied by the Reading Railroad Company, near the city bridge over the river Schuylkill, at the falls, where said north-easterly line would be intersected by the line dividing the property of H. Duhring from that of F. Stoever and T. Johnson, if the same were extended from thence in a south-westerly direction upon said dividing line, and its prolongation to the middle of the Ford road," and from thence the said boundary line shall proceed as in said first section is described; and furthermore, it is hereby declared to be the true intent and meaning of the fifth section of said act, that all the grounds pertaining to Fairmount park, and mentioned described in any of the sections of said act of assembly, shall be subject to all the powers, control and authority which is by force of law conferred upon the commissioners of Fairmount park.

Section 9. Interest on Damages

It is the true intent and meaning of the act, entitled "An act appropriating ground for public purposes in the City of Philadelphia," approved March twenty-sixth, one thousand eight hundred and sixty-seven, Act of 1867, March 26, P.L. 547, and of the supplements thereto, passed April fourteenth, one

thousand eight hundred and sixty-eight, Act of 1868, April 14, P.L. 1083 and of the provisions of this further supplement, that no interest shall be allowed on damages for ground taken, up to the time of their payment, on the issue of any warrant for their payment by the City of Philadelphia, excepting only such cases as are provided in the fourth section of this act. 1869, April 21, P.L. 1194, Sec. 9.