

VACATING CEMETERY IN CITY OR VILLAGE (EXCERPT)
Act 297 of 1929

128.55 Court proceedings; order to vacate, contents, recording; recorded under complete bar.

Sec. 5.

That the hearing of such petition may be continued from term to term, in the discretion of the court, without further notice; that all testimony may be taken in open court, or the taking of the same may be referred, in the discretion of the court, to a circuit court commissioner of the proper county; that, under direction of the court, proper issues may be made for the determination of all questions of law and fact, and all questions of compensation to any person, or persons, to be affected by such proceedings, and all issues of fact may be tried by a jury, if the court shall so order, and any person adversely interested may cause himself to be made defendant to such petition. In all cases where reference shall be made to a jury to determine the compensation to be paid to any person or persons, as aforesaid, the proceedings upon such reference shall, so far as practicable, be like those had in cases where a jury is empaneled to ascertain and determine the necessity of taking lands and other property as provided by the charter of the municipality or as provided in Act No. 149 of the Public Acts of 1911, as amended by Act No. 37 of the Public Acts of 1925, entitled "An act to provide for the condemnation by state agencies and public corporations of private property for the use or benefit of the public, and to define the terms 'public corporations,' 'state agencies' and 'private property' as used herein," being sections 353 to 373, inclusive, of the Compiled Laws of 1915, or such other appropriate provisions therefor as exist or shall be made by law, and to appraise the damages and compensation to be allowed therefor. If, upon the hearing of such petition, the petitioner shall produce satisfactory evidence to the court, that said trustees, or common council, have determined, as aforesaid, that the notice required by this act has been given; that the aforesaid contract between such city or village and said cemetery association has been executed in accordance with the terms hereof, and that such cemetery should be vacated, in whole or in part, as a place of burial, for the reasons given in this act for vacating cemeteries, such court shall thereupon order that such cemetery shall be vacated, in whole or in part, as a place of burial; upon this condition, however, that said city or village shall perform its obligations and agreements under the terms of the said contract. That a copy of such order certified by the register of such court under his seal shall be recorded by the petitioner in the office of the register of deeds of the proper county. That such order, when so recorded, shall be a complete bar to the rights of any person or persons, as lot owners and grave owners of such cemetery: Provided, however, That the rights of objecting lot owners and grave owners shall not be barred until the compensation awarded hereunder shall be paid by said city or village to the person or persons entitled to same or to the clerk of the county where such judgment was rendered.

History: 1929, Act 297, Imd. Eff. May 23, 1929 ;-- CL 1929, 2672 ;-- CL 1948, 128.55

Compiler's Notes: For provisions of Act 149 of 1911, referred to in this section, see MCL 213.21 et seq.