

**VACATING CEMETERY IN CITY OR VILLAGE (EXCERPT)**  
**Act 164 of 1871**

**128.43 Court proceedings; order to vacate; recording.**

Sec. 3. 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, franchises and other property for the construction of railroads and to apprise 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, and that such cemetery should be vacated in whole or in part as a place of burial for any of 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. 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.

**History:** 1871, Act 164, Eff. July 18, 1871;—CL 1871, 3425;—How. 4792;—CL 1897, 3487;—CL 1915, 3483;—CL 1929, 2665;—CL 1948, 128.43.