

Powers and duties.

Location to be filed within three years.

SECTION 9. In the exercise of the powers granted by this act, said corporations, and any person or corporation who shall sustain any damage in their property, shall have all the rights, privileges and remedies, and be subject to all the duties, liabilities and restrictions provided by the general laws of this Commonwealth in the like case; but the location of any railroad, railroad tracks or land, which said Boston and Albany Railroad Company is by this act authorized to construct or take, may be filed at any time within three years, within such limits as they shall elect, except as provided in the previous sections hereof.

SECTION 10. This act shall take effect upon its passage.

Approved June 23, 1869.

Chap. 462

AN ACT FOR SUPPLYING THE CITY OF LYNN WITH PURE WATER.
Be it enacted, &c., as follows:

May take water from Flax Pond.

May take water from Humphrey's Pond in Peabody and Lynnfield.

Proviso.

SECTION 1. The city of Lynn, for the purpose of supplying the inhabitants thereof with pure water, is hereby authorized to take, hold and convey to, into and through said city, the waters of Flax Pond, so called, in said city of Lynn, and the waters which flow into and from the same, and any water rights connected therewith; and may take and hold by purchase or otherwise, such land on and around the margin of said pond, not exceeding five rods in width, as may be necessary for the preservation and purity of said waters; and may also take and hold in like manner, such lands as may be necessary for erecting and maintaining dams and reservoirs, and for laying and maintaining conduits, pipes, drains and other works, for collecting, conducting and distributing said waters through said city. Said city may also, for the purpose aforesaid, take, hold and convey to, into and through said city the waters of Humphrey's Pond, so called, in the towns of Peabody and Lynnfield, and the waters which flow into and from the same, and may take and hold, by purchase or otherwise, such land on and around the margin of said pond, not exceeding two rods in width, as may be necessary for the preservation and purity of said waters; and may also take and hold in like manner such land as may be necessary for erecting and maintaining dams and reservoirs, and for laying and maintaining conduits, pipes, drains and other works for collecting, conducting and distributing said waters through said city: *provided*, that the right to take water from Humphrey's Pond shall not be exercised without the consent of the towns of Lynnfield and Peabody at a legal meeting held in each of said towns for that purpose, on or before the fourth Monday of July next.

SECTION 2. Said city, for the purpose aforesaid, may by agreement and arrangement with the city of Salem, by connecting pipes with the water works of said city of Salem, convey to, into and through said city of Lynn, the waters of Wenham Pond, so called, in the towns of Wenham and Beverly, and may take and hold, in like manner, such land as may be necessary, for the erecting and maintaining reservoirs, and for laying and maintaining conduits, pipes, drains and other works, for conducting and distributing said waters through said city of Lynn.

May take water from Salem water works by agreement.

SECTION 3. The mayor of said city of Lynn shall, within sixty days after taking any of the lands aforesaid, file in the registry of deeds for the county of Essex, a description thereof, sufficiently accurate for identification.

Mayor to file in registry of deeds description of land taken.

SECTION 4. Said city, for the purposes aforesaid, may build aqueducts from said Flax Pond or from the point of connection with said water works of the city of Salem, and maintain the same by any works suitable therefor; may provide and maintain suitable machinery for raising the water above the source of supply; may erect such structures as are necessary for preserving the works; may make and maintain suitable dams and reservoirs, and establish such public fountains and hydrants as are at any time deemed proper, and may change or discontinue the same; may distribute the water throughout said city, regulate its use, and establish the rates to be paid therefor. Said city may also, for the purposes aforesaid, carry its pipes and other works over or under any water-course, street, railroad or highway, in such manner as not to obstruct the same, and may do any other acts and things necessary and proper in executing the purposes of this act.

Aqueducts, machinery, &c.

Dams, reservoirs, fountains, &c.

SECTION 5. If said city enters upon and digs up, for the purposes aforesaid, any road or highway without its own limits, it shall do so under the direction of the selectmen of the town in which such road or highway is located, and shall restore the same to as good order and condition as it was in before such digging was commenced. Said city shall at all times indemnify and save harmless any such town against all damages which may be recovered against it, and reimburse to it all expenses, reasonably incurred by it, by reason of any defect or want of repair in such road or highway, caused by the laying or maintenance of said pipes, or by reason of any injury to persons or property, caused by any defect or want of repair in said pipes: *provided*, said city has notice of any claim or suit for such damage or injury, and an opportunity to defend the same.

Roads entered upon and dug up without the limits of Lynn.

Indemnity for damages.

Proviso.

Three commissioners to have charge of works.

SECTION 6. Three commissioners, elected by joint ballot of the two branches of the city council, shall execute, superintend and direct the performance of all the works, matters and things mentioned in the preceding sections, and not otherwise specifically provided for in this act, subject, however, to such ordinances, rules and regulations as the city council may ordain and establish, not repugnant to the provisions of law. They shall respectively hold office for the term of three years next after their election, unless the works aforesaid are sooner completed; but they, or either of them, after having an opportunity to be heard in defence, may be removed by the city council, by concurrent vote of two-thirds of each branch thereof. In case of a vacancy in the board of commissioners, from any cause, such vacancy shall be filled by the election of another commissioner, to hold for the residue of said term. A major part of said commissioners shall be a quorum for the exercise of the powers, and the performance of the duties of said office; they shall, once in six months, and whenever required by the city council, render a particular report in writing, of all their acts and proceedings, and of the condition and progress of said works.

—to hold office for three years.

—vacancies, how filled.

—to make report to the city council.

—salaries to be fixed by city council.

SECTION 7. The city council, before the appointment of said commissioners, shall establish and fix the salaries or compensation to be paid to them for their services, which shall not be reduced during their continuance respectively in said office.

—power of, to be vested in city when office ceases.

SECTION 8. Whenever the office of said commissioners shall cease, all the rights, powers and authority given to the city of Lynn by this act, shall be exercised by said city in such manner and by such officers, agents and servants, as the city council shall ordain and appoint.

Damages to be paid by city.

SECTION 9. Said city shall be liable to pay all damages sustained by any person or corporation by the taking of any land, water, water rights, franchises or property, or by the constructing of any aqueduct, reservoir or other works for the purposes aforesaid. If any person or corporation sustaining damage as aforesaid, cannot agree with said commissioners upon the amount of said damages, he may have them assessed and paid in the same manner as is provided by law with respect to land taken for highways; or upon application by either party, and notice to the other, the supreme judicial court, or any justice thereof, may, at any time within one year after the damages are sustained, appoint three commissioners, who shall determine the amount of said damages, and, as soon as may be, said commissioners, or the major

part of them, shall make return thereof to said court, who, upon acceptance of said report, may enter judgment thereon with costs: *provided*, if either party shall be dissatisfied with the award of said commissioners, such party may apply to the supreme judicial court, at the next succeeding term thereof in said county, for a trial by jury, and the same shall thereupon be tried at the bar of said court; and if upon such trial the amount of said award is increased, the party claiming damage shall recover his costs, otherwise the city shall recover costs, and the said court may issue execution upon any judgment so rendered.

SECTION 10. For the purpose of defraying the cost and expenses which may be incurred under the provisions of this act, the city council shall have authority to issue scrip, notes, bonds or certificates of debt, to be denominated on the face thereof, "City of Lynn Water Loan," to an amount not exceeding in the whole the sum of six hundred thousand dollars, bearing interest at a rate not exceeding seven per centum per annum, payable semi-annually, and the principal to be payable at periods not more than thirty years from the time of issuing said scrip, notes, bonds or certificates of debt respectively; but the same shall not be sold or pledged for less than the par value thereof.

SECTION 11. The city council shall establish such price or rents for the use of the water, as to provide annually, if practicable, from the net income and receipts therefor, for the payment of the interest, and not less than one per centum of the principal of the "City of Lynn Water Loan," and shall determine the manner of collecting the same. The net surplus income and receipts, after deducting all expenses and charges of distribution, shall be set apart as a sinking fund, and applied solely to the payment of the principal of said loan, until the same is fully paid and discharged. The mayor, city treasurer, and president of the common council for the time being, shall be trustees of said fund, and shall, whenever required by the city council, render an account of all their doings in relation thereto.

SECTION 12. The occupant of any tenement shall be liable for the payment of the rent for the use of the water in such tenement; and also the owner thereof shall be liable, if on being notified of such use, he does not object thereto.

SECTION 13. If any person shall use any of the said water, without the consent of said city, or shall wantonly or maliciously divert the water, or any part thereof, of any of the ponds, springs, streams or sources of water taken or held by said city, pursuant to the provisions of this act, or corrupts

Proviso.

City council may issue scrip to defray expenses.

—to establish price for use of water.

Sinking fund.

Occupant and owner of tenement liable for rent.

Penalty for using water without consent of city.

Corrupting
water, &c.

the same, or renders it impure, or destroys or injures any dam, aqueduct, pipe, conduit, hydrant, machinery, or other works or property held, owned or used by said city under the authority and for the purposes of this act, shall forfeit and pay to said city three times the amount of damages assessed therefor, to be recovered in an action of tort; and on conviction of either of the wanton or malicious acts aforesaid, may also be punished by fine not exceeding three hundred dollars, or by imprisonment in jail not exceeding one year: *provided*, that nothing herein contained shall be construed to prevent persons from cutting and securing ice on Flax and Sluice Ponds in the manner heretofore practised.

Proviso.

Act to be sub-
mitted to the
voters.

SECTION 14. This act shall be void, unless submitted to and approved by a majority of the voters of said city present and voting at meetings held simultaneously for the purpose, in the several wards, on the first Monday of August next, upon notice duly given, at least seven days before the time of holding said meetings.

City council to
determine from
whence water
shall be taken.

SECTION 15. The city council shall, by joint ballot, at least fourteen days before said first Monday of August, determine the source from which, in the event of the acceptance of this act, said city shall take the water; and shall, forthwith, notify the inhabitants of said city of its decision, by publication in the newspapers of said city.

Aqueduct to be
constructed
within three
years.

SECTION 16. This act shall be void unless the aqueduct shall be constructed within three years.

SECTION 17. This act shall take effect upon its passage.

Approved June 23, 1869.

Chap. 463

AN ACT TO ENFRANCHISE THE INDIANS OF THE COMMONWEALTH.

Be it enacted, &c., as follows:

Indians, &c.,
made citizens.

SECTION 1. All Indians and people of color, heretofore known and called Indians, within this Commonwealth, are hereby made and declared to be citizens of the Commonwealth, and entitled to all the rights, privileges and immunities, and subject to all the duties and liabilities to which citizens of this Commonwealth are entitled or subject.

Indian lands.

SECTION 2. All lands heretofore known as Indian lands, and rightfully held by any Indian in severalty, and all such lands which have been or may be set off to any Indian, shall be and become the property of such person and his heirs in fee simple: *provided*, that such lands shall not be held liable to be taken upon attachment or execution for any debt or liability which existed before the passage of this act; and all Indians shall hereafter have the same rights as other citizens to take, hold, convey and transmit real estate.

Proviso.