

AN ACT relating to Land taken for Public Ways.

Chap. 133

Be it enacted, &c., as follows :

Whenever any land shall be taken for the location or alteration of any highway, and the owner thereof shall have had no notice in fact of such location or alteration, he shall be entitled to have a jury to assess the damages occasioned thereby, upon application made in accordance with the provisions of the twenty-fourth chapter of the Revised Statutes, at any time within six months from the time such location or alteration shall come to his knowledge: *provided*, that the time for such application shall not be extended beyond the period of six months after the road, so located or altered, shall be opened for public travel. [*Approved May 8, 1857.*]

Owners may apply for jury.

Proviso.

AN ACT to authorize Hiram Brooks to extend his Wharf.

Chap. 134

Be it enacted, &c., as follows :

Hiram Brooks, proprietor of a wharf situated in Cambridge, on the westerly side of Charles River, and on the northerly side of the Hancock Free Bridge Corporation, is hereby authorized to extend the same, two hundred and five feet, in an easterly direction, bounded northerly on the southerly line of Broad Canal, and southerly on the northerly line of the Hancock Free Bridge Corporation; and he shall have the right to lay vessels at the end and side of said wharf, and receive wharfage and dockage therefor: *provided, however*, that this act shall in no way impair or affect the legal rights of any person or corporation whatever. [*Approved May 8, 1857.*]

May extend wharf in Cambridge.

Rights, &c.

Proviso.

AN ACT to incorporate the Jamaica Pond Aqueduct Corporation.

Chap. 135

Be it enacted, &c., as follows :

SECTION 1. George H. Williams, Arthur W. Austin and Thomas B. Williams, their associates and successors, are hereby made a corporation by the name and title of the Jamaica Pond Aqueduct Corporation; and the provisional agreement made by the city of Boston with the said George H. Williams by which the said city have agreed to convey their interest in all the property, estates and privileges, except that of supplying or distributing water within the limits of the city of Boston, of the aqueduct corporation which was incorporated by act passed the twenty-seventh day of February, seventeen hundred and ninety-five, is hereby authorized, sanctioned and confirmed; and the sale by said city of Boston to said George H. Williams, of all the property, estates and privileges which the said city of Boston

Corporators.

Name.

Certain acts confirmed.

was authorized to purchase of the aqueduct corporation, by the sixteenth section of the act passed March thirtieth, eighteen hundred and forty-six, is hereby authorized.

May bring water
from Jamaica
Pond.

Rights, privi-
leges, &c.

May open ground
lay pipes, &c.

Proviso.

Provided, also.

Provided further.

May enter upon
and lay down
pipes, &c.

SECTION 2. The said Jamaica Pond Aqueduct Corporation are hereby authorized and empowered to bring the water from Jamaica Pond, from the same source and point from which the aqueduct corporation incorporated in the said year seventeen hundred and ninety-five, brought the said water; and shall have full power and lawful authority, by subterraneous pipes, to bring water from said Jamaica Pond, and supply the same to the city of Roxbury, to the town of Brookline, and to the town of West Roxbury; and for this purpose the said Jamaica Pond Aqueduct Corporation shall have, use and enjoy the same rights, privileges and easements, for supplying pure water to the towns and city aforesaid, as were had, used and enjoyed by the aqueduct corporation for the dispensing water to the city of Boston; and to enable the said corporation to supply the said city of Roxbury and towns aforesaid, the said corporation are hereby fully authorized and empowered to open the ground in any part of the streets and highways in the city of Roxbury and town of West Roxbury and town of Brookline, for the purpose of sinking and repairing such pipes and conductors as it may be necessary to sink for the purpose aforesaid: *provided*, that the said highways and streets shall not be opened or used by the said corporation in such manner as to obstruct or hinder the citizens of the Commonwealth; and the said corporation, after opening the ground in any of the said streets or highways, shall be held to put the same again in repair to the satisfaction of the authorities of the said city and towns respectively; *provided, also*, that in excavating for the purposes of laying the pipes or repairing the same, the work shall be done agreeably to the direction of the board of mayor and aldermen of the city of Roxbury, and in the towns of West Roxbury and Brookline, under the direction of the selectmen of those towns respectively: *and it is further provided*, that the city of Roxbury shall be allowed the privilege of inserting ten hydrants into the main pipes of the aqueduct at such points as may be indicated by the city authorities of Roxbury, with the right of using the water in cases of fire, but for no other purpose whatever, without the special permission of the directors of the corporation.

SECTION 3. The said corporation be, and they are hereby authorized and empowered, for the purpose of extending their supply of fresh water, to enter upon and improve for

the laying down subterraneous pipes, the corporate or private estate of any person, town or corporation whatsoever, within the boundaries of the city of Roxbury, town of West Roxbury, or town of Brookline; and the said corporation are hereby empowered to take, hold, purchase, or improve, for the purpose of laying down subterraneous pipes, any land not exceeding ten feet in width in the territory of the said city and towns aforesaid, and shall at all times have free ingress and egress into and from the same in order to lay down, inspect, renew and repair the said pipes; and the said corporation shall be held to pay all damages which shall accrue to any party by the taking, holding or improving the land aforesaid, for the purposes aforesaid; and where the damages cannot be adjusted satisfactorily by the parties, the damages may be estimated by the county commissioners of the county of Norfolk, saving to either party the right of trial by jury, according to the law which provides for the recovery of damages accruing by laying out public highways. All claims for damages shall be preferred by the party entitled to demand the same, within twelve months from the time when the ground shall have been taken or first entered upon in manner as herein before mentioned; and the said corporation, after having opened any of the ground aforesaid, for the purposes aforesaid, shall be held to put the same again in proper condition. Said corporation shall be liable for any loss or injury that any person or persons may sustain by reason of any carelessness, neglect or misconduct of said corporation, or of any of its agents or servants; and in case any recovery shall be had against either of said towns or against said city of Roxbury in consequence of any such carelessness, neglect or misconduct, or in consequence of any act of said corporation, or of its servants or agents, said corporation shall be liable to pay to said towns and said city of Roxbury, respectively, any sums thus recovered against them, together with all costs and reasonable expenditures incurred by said towns and said city of Roxbury, or either of them, in defence of such suit or suits in which such recovery may be had; but nothing herein contained shall be construed as creating any obligation or liability on the part of said towns or said city of Roxbury, beyond that which now exists by law.

Damages, how settled.

Corporation liable, &c.

SECTION 4. The capital stock of said corporation shall not exceed the sum of one hundred thousand dollars, to be divided into shares of one hundred dollars each; and no shares shall be issued for a less sum, to be actually paid in on each, than the par value of the shares which shall first be issued:

Capital stock not to exceed \$100,000.
Shares \$100 each.
No shares issued under par.

and said corporation may establish the capital stock at fifty thousand dollars, with power, by vote of two-thirds of the stockholders in interest, to increase the same to one hundred thousand dollars; and said corporation shall have power to purchase and hold such real estate, within said city of Roxbury and towns aforesaid, as may be necessary or convenient for the purposes and management of said Aqueduct Corporation.

Rights, privileges, &c., of corporation.

SECTION 5. And the said Jamaica Pond Aqueduct Corporation are hereby authorized and empowered to draw the water from the said pond, from the same point established and limited by the easement, privileges and rights acquired by the Aqueduct Corporation, chartered in the year seventeen hundred and ninety-five, and no farther, without the consent of the inhabitants of the town of West Roxbury, in town meeting assembled; and all the rights, interests and estate of the town of West Roxbury, in said pond, are hereby reserved, as to cutting ice, or any other general use or appropriation thereof, which does not impair the rights and privileges and easements of the said Jamaica Pond Corporation, as aforesaid: and the said Aqueduct Corporation shall, whenever requested by the selectmen of West Roxbury, so draw off the water, that the banks of said pond shall not be washed away or otherwise injured.

Rights, &c., of West Roxbury.

Rights limited to furnish water, &c.

SECTION 6. The said Jamaica Pond Aqueduct Corporation shall have no right, after the passage of this act, to supply any water from Jamaica Pond to the city of Boston, or to the inhabitants thereof, unless especially authorized and requested by the city authorities of Boston; and the right of supplying water shall be limited to the city of Roxbury and to the towns aforesaid: but if any change in the municipal jurisdiction, over a whole or a part of the territory now known as the city of Roxbury, should take place, nothing in this act shall be so construed as to take away the right to supply the whole or any portion of such territory.

Right of parties entitled to damages.

SECTION 7. When any claim for damages shall be preferred by any party for laying down, renewing or repairing the pipes of said Corporation, as provided for in the third section, said damages shall be paid within three months after the same shall be fixed and determined; and if not so paid, the party entitled to such damages shall have the right to take up and remove said pipes on his premises; and they shall not be relaid till said damages are paid. [*Approved May 8, 1857.*]