

subject to the provisions, duties, restrictions, liabilities and privileges, set forth in the act passed May twenty-fourth, eighteen hundred and fifty-one, entitled "An Act in addition to an Act entitled An Act to authorize the Business of Banking;" and *provided, also*, that no part of the additional capital aforesaid, shall be exempted from taxation, until the whole circulation of said bank shall exceed the amount already allowed by law.

Subject to provisions of act of 1851.

Proviso.

Approved April 5, 1859.

AN ACT RELATING TO ATTACHMENTS OF REAL ESTATE.

Be it enacted, &c., as follows:

In all writs issuing from the justices' court of the county of Suffolk, or from police courts, or from justices of the peace, wherein the debt or damages demanded exceeds twenty dollars, an attachment of lands or tenements may be made with the same effect, and in the same manner, as if such attachments were made upon a writ issuing from the court of common pleas.

Chap. 183

Writs issuing from certain courts, - when debt exceeds twenty dollars.

Approved April 5, 1859.

AN ACT TO AUTHORIZE THE CITY OF BOSTON TO RAISE THE DAM AT THE OUTLET OF LAKE COCHITUATE.

Be it enacted, &c., as follows:

SECTION 1. The city of Boston is hereby authorized, by and through the agency of the Cochituate Water Board therein, or by and through any other agency which shall be established therefor, by the city council of said city, to raise the dam at the outlet of Lake Cochituate, formerly called "Long Pond," lying in the towns of Natick, Wayland and Framingham, to the height of ten feet above the floor of "Knight's Flume," so called, and may also take and hold, from time to time, by purchase or otherwise, any lands or real estate on and around the margin of said lake, not exceeding five rods in width, measuring from the verge of said lake, when the same shall be raised to the level authorized by this act, so far as such lands and real estate may be necessary for the preservation and purity of said lake, for the purpose of furnishing a supply of pure water for said city of Boston: *provided, however*, that no lands or real estate taken or purchased under this act, shall be exempted from taxation, by reason of such taking or purchase. All lands and real estate within said towns, heretofore taken or purchased, and now held by said city by virtue of an act approved March thirtieth, eighteen hundred and forty-six, or by virtue of any other act heretofore passed, shall be and remain exempted from taxation, so long as they continue to be so held and used for the purposes of said acts.

Chap. 184

City of Boston authorized to raise dam.

May take and hold real estate.

Proviso.

Exemption from taxation.

City to be liable for all damages sustained.

Rights and remedies.

City to indemnify Natick and Wayland.

Act not to take effect until, &c.

SECTION 2. The said city of Boston shall be liable to pay all damages that shall be sustained by any persons in their property, by the taking of any land or real estate, or by the flowage of the lands of any person as aforesaid; and in regard to such taking and flowing and the ascertainment and payment of all such damages, the said city of Boston, and all persons claiming damages, shall have all the rights, immunities and remedies, and be subject to all the duties, liabilities and obligations, which are provided in the one hundred and sixty-seventh chapter of the acts of the year one thousand eight hundred and forty-six, the one hundred and eighty-seventh chapter of the acts of the year one thousand eight hundred and forty-nine, and the three hundred and sixteenth chapter of the acts of the year one thousand eight hundred and fifty. Said city of Boston shall also indemnify said towns of Natick and Wayland, against all injury which may at any time be done to any highway or bridge in such towns, by reason of the raising of the water, and maintaining the dam, as herein before provided.

SECTION 3. This act shall not take effect, until said city of Boston shall have paid to the said town of Framingham, the sum of forty-five hundred dollars; to the said town of Natick, the sum of three thousand dollars, and to the said town of Wayland, the sum of one thousand dollars; nor until said act shall have been accepted by the city council of said city of Boston.

Approved April 5, 1859.

Chap. 185

AN ACT CONCERNING ACTIONS ON JUDGMENTS.

Be it enacted, &c., as follows:

Defences in actions obtained on judgment by default.

Proviso.

Whenever an action is or shall be brought upon a judgment obtained by default, and without the knowledge of the defendant, the court may, in their discretion, and upon such terms as they shall deem reasonable, allow the defendant to show in defence any payment, satisfaction or extinguishment, of the claim, prior to the obtaining of such judgment, or any matter of fraud, which in either case he might have shown upon a writ of review in the original suit: *provided*, such action be brought within six years from the rendition of such judgment.

Approved April 5, 1859.

Chap. 186

AN ACT CONCERNING THE AGENT AND DRAW-TENDERS OF CHARLES RIVER AND WARREN BRIDGES.

Be it enacted, &c., as follows:

Office of agent abolished.

SECTION 1. The office of agent of Charles River and Warren Bridges is hereby abolished.

Draw-tenders.

SECTION 2. The draw-tenders for the Charles River Bridge and the Warren Bridge, shall hereafter be appointed