

tion or removal from the state, in the office of state director of any corporation in which by law the state is authorized to be represented, or in any office filled by election of the legislature for which no other provision is made, the governor, with the consent of the council, shall appoint some suitable person to fill any such vacancy, who shall hold office till the assembling of the legislature and until another shall be chosen in his stead.

SECTION 2. This act shall take effect from its passage.

*Approved June 11, 1860.*

*Chap. 217* AN ACT FOR SUPPLYING THE CITY OF CHARLESTOWN WITH PURE WATER.

*Be it enacted, &c., as follows :*

Right of supply and contract.

SECTION 1. The city of Boston is hereby authorized to supply the city of Charlestown with pure water at such prices and upon such terms and conditions as may be agreed upon between said cities of Boston and Charlestown; and the city of Charlestown is hereby authorized to procure of the city of Boston, as in manner hereinafter provided, a supply of pure water for the use of the inhabitants of said city of Charlestown; and may contract with said city of Boston for the price to be paid for said water.

Right to lay pipe.

SECTION 2. The city of Boston may, under the provisions of the act for supplying the city of Boston with pure water, passed March thirtieth, eighteen hundred and forty-six, lay and maintain a suitable iron main or pipe from such of its pipes or reservoirs, within or without said city, as they may deem expedient, to such point in the city of Charlestown as may be found most convenient to connect with a reservoir, or the pipes belonging to said city of Charlestown.

Land and real estate.

SECTION 3. The city of Charlestown may take and hold by purchase, or otherwise, lands and real estate necessary for erecting, laying and maintaining, and may erect, lay and maintain such aqueducts, pipes, reservoirs, embankments, water-ways, drains or other structures as may be necessary or convenient to convey said water into, and for the use of the said city of Charlestown. And for the purposes of distribution may lay down pipes to any house or building in said city, and may make and establish public hydrants in such places as may from time to time be deemed proper, and prescribe the purposes for which they may be used, and may change or discontinue the same; may regulate the use of the water within said city, and establish the prices or rents to be paid for the use thereof. And the said city may, for the purposes aforesaid, carry and conduct any

Distributing pipe, hydrants, &c.

Use of water. Rents, &c.

Opening streets and roads.

aqueducts, or other works by them to be made and constructed, over or under any water-course, or any street, turnpike road, railroad, highway, or other way, in such manner as not to obstruct or impede travel thereon, and may enter upon and dig up any such road, street, or way, for the purpose of laying down said aqueducts or other works, and for maintaining and repairing the same.

SECTION 4. The said city of Charlestown shall be liable to pay all damages that shall be sustained by any persons in their property by the taking of any land, or by the constructing of any aqueducts, reservoirs or other works, for the purposes of this act. And if the owner of any land which shall be taken as aforesaid, or other person who shall sustain damage as aforesaid, shall not agree upon the damages to be paid therefor, he may apply, by petition, for the assessment of his damages, at any time within three years from the taking of the said land, as aforesaid, and not afterwards, to the superior court in the county of Middlesex, unless sooner barred as provided in the fifth section of this act. Such petition may be filed in the clerk's office of said court, in vacation or in term time, and the clerk shall thereupon issue a summons to the city of Charlestown, returnable, if issued in vacation, to the then next term of the said court, and if in term time, returnable on such day as the said court shall order, to appear and answer to the said petition; the said summons shall be served fourteen days at least before the return day thereof, by leaving a copy thereof, and of the said petition, certified by the officer who shall serve the same, with the mayor or clerk of said city; and the said court may, upon default or hearing of the said city, appoint three disinterested freeholders of this Commonwealth, who shall, after reasonable notice to the parties, assess the damages, if any, which petitioner may have sustained as aforesaid; and the award of the said freeholders, or of the major part of them, being returned into and accepted by the said court, shall be final, and judgment shall be rendered and execution issued thereon for the prevailing party, with costs, unless one of the said parties shall claim a trial by jury as hereinafter provided.

SECTION 5. Whenever any damages shall have been sustained by any persons, as set forth in the fourth section of this act, and such persons shall neglect to institute proceedings against the city of Charlestown, according to the provisions of this act, for the space of five months, it shall be lawful for the city of Charlestown to commence such proceedings, which shall go on and be determined in the same

Damages to property, &c.

Judgment for damages, &c.

manner as if commenced by the persons who shall have sustained such damage; and if such persons on receiving due notice, shall not come in and prosecute the proceedings so instituted, judgment shall be entered against them, and they shall be forever barred from recovering any damages under this act.

Trial by jury.

SECTION 6. If either of the parties mentioned in the fourth section of this act shall be dissatisfied with the amount of damages awarded as therein expressed, such party may, at the term at which such award was accepted, or the next term thereafter, claim, in writing, a trial in said court, and have a jury to hear and determine, at the bar of said court, all questions of fact relating to such damages, and to assess the amount thereof: and the verdict of such jury being accepted and recorded by the said court, shall be final and conclusive, and judgment shall be rendered and execution issued thereon, and costs shall be recovered by the said parties, respectively, in the same manner as is provided by law in regard to proceedings relating to the laying out of highways.

Of petition to the superior court.

SECTION 7. In every case of a petition to the superior court for the assessment of damages, as provided in the fourth, fifth and sixth sections of this act, the city of Charlestown, by any of its officers, may tender to the complainant, or his attorney, any sum that it shall think proper, or may bring the same into court, to be paid to the complainant for the damages by him incurred or claimed in his petition; and if the complainant shall not accept the same, with his costs up to that time, but shall proceed in the suit, he shall be entitled to his costs up to the time of the tender, or such payment into court, and not afterwards; and the said city shall be entitled to recover its costs afterwards, unless the complainant shall recover greater damages than were so offered.

Water bonds or scrip.

SECTION 8. For the purpose of defraying all the costs and expenses of constructing aqueducts and works necessary and proper for the accomplishment of supplying the city of Charlestown with water, and all expenses incident thereto, heretofore incurred or that may be hereafter incurred, the city council shall have authority to issue from time to time, scrip, notes or certificates of debt, to be denominated on the face thereof "Water Bonds of the City of Charlestown," to an amount not exceeding one hundred and twenty-five thousand dollars, bearing interest at a rate not exceeding the legal rate of interest in this Commonwealth, which shall be redeemable at a period of time not less than ten, nor more

than fifty years, from and after the issue of the said scrip, notes or certificates, respectively; and the said city council may sell the same or any part thereof, from time to time, at public or private sale, or pledge the same for money borrowed for the purposes aforesaid, on such terms and conditions as the said city council shall judge proper; and the said city council may, for the purpose of meeting payments of such interest as may accrue upon any certificate of debt, make such farther issue of scrip, notes or certificates of debt, as may be necessary therefor.

SECTION 9. The city council shall, from time to time, regulate the price or rent for the use of the water, with a view to the payment from the net income and receipts, not only of the semi-annual interest, but also ultimately of the principal of said debt so contracted, so far as the same may be practicable and reasonable: and the occupant of any tenement shall be liable for the payment of the price or rent for the use of the water in such tenement; and the owner thereof shall be also liable, if, on being notified of such use, he does not object thereto; and if any person or persons shall use any of the said water within said city, without the consent of said city, an action of tort may be maintained against him or them, for the recovery of damages therefor.

Water rents.  
Sinking fund.

Liability of occupants and owners of estates.

SECTION 10. The city council may, from time to time, pass such by-laws and ordinances as they may deem proper, for the preservation and protection of any of the works within said city connected with the supplying of the city of Charlestown with pure and wholesome water, under and by virtue of this act: *provided*, such by-laws and ordinances are not inconsistent with any laws of this Commonwealth, or with the constitution thereof, subject at any time to be repealed or modified by the legislature, and may also organize a department with full powers for the management of such works, and the distribution of the said water.

Regulations and by-laws.

Proviso.

SECTION 11. The provisions of this act shall be void, unless submitted to and approved by the voters of the city of Charlestown, at meetings held simultaneously for that purpose in the several wards, upon notice duly given at least seven days before the time of holding said meetings.

Act to be approved by voters of Charlestown.

SECTION 12. This act shall take effect from and after its passage.

*Approved June 12, 1860.*

AN ACT RELATING TO BANKS.

Chap. 218

*Be it enacted, &c., as follows:*

SECTION 1. The provisions of the fortieth section of the fifty-seventh chapter of the General Statutes, shall not be

Number of directors.