

AN ACT TO INCORPORATE THE EVERETT AND CHELSEA STREET RAILWAY COMPANY. *Chap. 132*

Be it enacted, &c., as follows :

SECTION 1. Alonzo H. Evans, William E. Titcomb and Anthony Waterman, their associates and successors, are hereby made a corporation by the name of the Everett and Chelsea Street Railway Company, with authority to build, maintain and operate a street railway, beginning at some convenient point in Chelsea square, and running through Malden street, Second and Cedar streets in Chelsea, and through Charlestown street and Hancock street, as far as Oak street, in the town of Everett, and through any other street or streets in that part of the town of Everett which lies south-easterly of Charlestown street; with all the powers and privileges, and subject to all the duties, restrictions and liabilities set forth in all general laws which now are or hereafter may be in force applicable to such corporations.

Corporators.

Name and purpose.

Powers and duties.

SECTION 2. Said corporation may connect with, enter upon and use with its own motive power, the track now laid and owned, or leased, by the Lynn and Boston Railroad Company in said square, and between said square and the Winnisimmet Ferry, in making their trips between Everett and said ferry; the compensation for such use to be determined according to the statutes in such case made and provided.

May connect with Lynn and Boston Railroad.

SECTION 3. The capital stock of said corporation shall not exceed sixty thousand dollars.

Capital stock.

SECTION 4. This act shall take effect upon its passage.

Approved March 24, 1871.

AN ACT FOR SUPPLYING THE CITY OF FALL RIVER WITH PURE WATER. *Chap. 133*

Be it enacted, &c., as follows :

SECTION 1. The city of Fall River is hereby authorized to take, hold, and convey into and through the said city, by suitable aqueducts or pipes, the waters of the North Watuppa Pond, so called, in the said city, and the town of Westport, and the waters which may flow into the same; and may also take and hold by purchase or otherwise, any real estate, rights of way, water-rights or easements, necessary for erecting, laying or maintaining, and may erect, lay and maintain, such aqueducts, pipes, dams, gates, pumps, bridges, reservoirs, embankments, water-ways, drains, and other structures as may be necessary or convenient to insure the purity of the waters of said pond, or of any of the ponds or streams running into said North Watuppa Pond; or to convey said waters into and for the use of said city of Fall River.

City of Fall River may take water from North Watuppa Pond.

May take land for laying aqueducts, pipes, &c.

May take part of the water from pond.

SECTION 2. The city of Fall River, instead of taking the entire waters of said North Watuppa Pond, may, if it shall so elect, take a part of said waters, such election to be made by the city council, by a vote declaring the quantity or proportion of said waters they propose to take, to be passed not less than six months before the waters shall be withdrawn from said pond; with all the afore granted rights and powers for preserving the purity of said waters and for conveying them to the city. And in case the said city elect to take only a portion of said water as aforesaid, said city shall be responsible in damages for such partial taking only.

Notice of partial taking of water to be filed in registry of deeds.

Notice of the election of the city to take the portion of the waters of said pond herein permitted and prescribed shall be given by filing a copy of the vote of the city council making such election in the registry of deeds for the northern district of the county of Bristol six months before any water shall be withdrawn from said pond.

May take additional water after five years by filing vote of city council in registry of deeds.

SECTION 3. The city of Fall River, at any time not less than five years after exercising the election provided in the previous section, and at any subsequent time not less than five years from a previous election, may by a vote of the city council take for the use of said city from the waters of said pond an additional supply by filing a copy of the vote of the city council in the registry of deeds aforesaid six months before the additional amount shall be withdrawn from said pond, with the powers and privileges contained in the second section of this act, and said city shall be liable in damages for taking such additional amount from time to time, only for the additional amount they may thus elect to take.

Regulations concerning level of water in pond and that of Watuppa Reservoir Company.

SECTION 4. In case the said city of Fall River shall elect to take only a portion of the waters of said pond as herein permitted and prescribed, said city, whenever the level of the water in the South Watuppa Pond is twelve inches or more below the point to which the Watuppa Reservoir Company are now by law allowed to raise the same, and the water in the said North Watuppa Pond is not more than six feet below the said point, shall not retain the waters of the North Watuppa Pond at an elevation of more than one inch above the waters of said South Watuppa Pond.

City to provide means for measuring water taken from pond.

SECTION 5. It shall be the duty of the city to provide some reliable means or method of measuring and registering the amount of water taken from said pond, such register or record to be accessible at all times to any interested parties; and if the owner of any water-rights in the waters of said pond and the city shall fail to agree upon the mode of measurement, the method shall be fixed by one or more engineers, to

be appointed, upon the application of either party, by any justice of the supreme judicial court.

SECTION 6. For the purposes of distribution, the city may lay down pipes to any house or building in said city, the owner or owners thereof having notice thereof and not objecting thereto, 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 and without the 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 aqueducts or other works by them to be made and constructed over or under any water-course or street, turnpike, road, railroad, highway or other way, in such manner as not to obstruct or impede travel thereon or the free flow of the water therein.

May lay down pipes and sewers, establish public hydrants &c.

SECTION 7. Three commissioners shall be appointed by the city council, who shall, during their continuance in office, execute and perform, superintend and direct the execution and performance of all the works, matters and things mentioned in the preceding sections which are not otherwise especially provided for in this act. They shall be subject to such ordinances, rules and regulations in the execution of their said trust as the city council may from time to time ordain and establish not inconsistent with the provisions of this act and the laws of this Commonwealth. They shall respectively hold their said office for the term of three years next after their said appointment, unless the aqueducts and works aforesaid shall be sooner completed; but they or either of them, after having had an opportunity to be heard in his or their defence, may be removed at any time by a concurrent vote of two-thirds of each branch of the city council. And in case of a vacancy in the board of commissioners by death, resignation, removal or other cause, such vacancy shall be filled by the appointment of another commissioner in the manner aforesaid, who shall hold his said office for the residue of the said term of three years; with all the powers, and subject to all the restrictions aforesaid.

Three commissioners to have charge of works.

A major part of said commissioners shall be a quorum for the exercise of the powers and the performance of the duties of the said office; they shall once in every six months, and whenever required by the city council, make and present in writing a particular report and statement of all their acts and proceedings, and of the condition and progress of the works aforesaid.

Majority of commissioners to establish quorum.

Salaries to be fixed by city council.

SECTION 8. Before the appointment of the commissioners aforesaid, the city council shall establish and fix the salaries or compensation to be paid to the commissioners for their services, and the said salaries of the said commissioners so established and fixed as aforesaid shall not be reduced during their continuance respectively in said office.

When office of commissioners ceases, powers to be executed as city council directs.

SECTION 9. Whenever the office of commissioners shall cease, all the rights, powers, and authority given to the city of Fall River, by this act, shall be exercised by the said city, subject to all the duties, restrictions and liabilities herein contained, in such manner and by such agents as the city council shall from time to time ordain, appoint and direct.

Fall River liable for damages.

SECTION 10. The city of Fall River shall be liable to pay all damages that shall be sustained by any person or persons in their property by the taking respectively of the entire waters of said North Watuppa Pond, or by the taking of any less proportion of said waters as authorized by the second and third sections of this act, or by the taking of any land, rights of way, water rights, or easements, or by the erection of any dams, or the construction of any aqueducts, reservoirs, water ways, or other works for the purposes of this act, and if the owner or owners of any property which shall be taken as aforesaid, or other person or persons sustaining damages as aforesaid, shall not agree upon the damages to be paid therefor, he or they may apply by petition, for the assessment of the damages at any time within three years from the taking of the said property, or the construction of the dams or other works occasioning damage as aforesaid, and not afterwards, to the superior court in the county in which the same are situate, unless sooner barred, as provided in the eleventh 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 Fall River, returnable if issued in vacation at the 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 term or day at which it is returnable, 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 said city, appoint three disinterested persons, who shall, after reasonable notice to the parties, assess the damages, if any, which such petitioner may have sustained as aforesaid, and the award of the said persons, or a major part of them being returned into and

Petition for assessment of damages to be made to superior court within three years.

Court to appoint three disinterested persons to assess damages.

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 11. Whenever any damage shall have been sustained by any person or persons, as set forth in the tenth section of this act, and such person or persons shall neglect to institute proceedings against the city of Fall River, according to the provisions of this act for the space of twelve months, it shall be lawful for the city of Fall River to commence such proceedings, which shall go on and be determined in the same manner as if commenced by the person or persons who shall have sustained such damage, and if such person or persons on receiving due notice shall not come in and prosecute the proceedings so instituted, judgment shall be entered against them without costs, and they shall be forever barred from recovering any damages under this act.

If parties receiving damage do not commence proceedings to determine damages within twelve months, Fall River may, &c.

SECTION 12. If either of the parties mentioned in the tenth section 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 said 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.

Parties dissatisfied with amount of damages may have trial by jury.

SECTION 13. No application shall be made to the court for the assessment of damages for the taking of any water rights until the water be actually withdrawn or diverted by said city under authority of this act.

Damage not to be applied for until water is actually taken.

SECTION 14. In every case of a petition to the superior court for the assessment of damages as provided in the tenth, eleventh, twelfth and thirteenth sections of this act, the city of Fall River 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 sustained 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 unless he shall recover greater

City may tender amount of damages or pay money into court.

damages than were so offered, 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 of the city of Fall River not exceeding \$500,000 may be issued.

SECTION 15. For the purpose of defraying all costs and expenses of such lands, estates, water and water rights or other property as shall be taken, purchased or held for the purposes mentioned in this act, and for constructing all aqueducts and works necessary and proper for the accomplishment of the said purposes, 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 Fall River," to an amount not exceeding five hundred thousand dollars, bearing interest not exceeding six per cent. per annum, which shall be redeemable at a period of time, not more than fifty years from and after the issue of 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 purposes of meeting payments of such interest as may accrue upon any certificate of debt, make such further issue of scrip, notes or certificates of debt as may be necessary therefor.

City council may pass by-laws, &c., for preservation and protection of water works.

SECTION 16. 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 all or any of the works connected with the supplying of the city of Fall River 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 or the distribution of the said water.

To regulate price of water.

SECTION 17. 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 the interest, but ultimately 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 said water either within or without the said city without the consent of the city, an action of tort may be maintained against him or them for the recovery of damages therefor.

Penalty for using water without consent of city.

SECTION 18. If any person or persons shall wilfully or maliciously divert the water or any part thereof of any of the ponds, streams or water sources, which shall be taken by the city pursuant to the provisions of this act, or shall corrupt the same, or render it impure, or destroy or injure any dam, aqueduct, pipe, conduit, hydrant, machinery or other property, held, owned or used by the said city by the authority and for the purposes of this act, such person or persons shall forfeit and pay to the said city three times the amount of the damage that shall be assessed therefor, to be recovered by any proper action. And such person or persons may moreover on indictment and conviction of either of the wilful and malicious acts aforesaid, be punished by a fine not exceeding one thousand dollars and imprisonment not exceeding one year.

Penalty for maliciously diverting water or corrupting the same.

SECTION 19. The provisions of this act shall be void unless submitted to and approved by the voters of the city of Fall River, at meetings held simultaneously for that purpose, in the several wards within one year from the passage of this act, upon notice duly given at least seven days before the time of holding said meetings.

Subject to acceptance by voters of city.

SECTION 20. This act shall take effect upon its passage.

Approved March 24, 1871.

AN ACT TO INCORPORATE THE NEWTON FREE LIBRARY.

Chap. 134

Be it enacted, &c., as follows :

SECTION 1. George H. Jones, John C. Chaffin, Isaac T. Burr, J. Wiley Edmands, George W. Bacon, John S. Farlow, Adin B. Underwood, Joel H. Hills, George S. Bullens, George C. Lord, Nathan P. Coburn, their associates and successors, are hereby made a corporation by the name of the Newton Free Library, for the purpose of establishing and maintaining a social library, and for the diffusion of knowledge and the promotion of intellectual improvement, in the town of Newton ; with all the powers and privileges, and subject to all the duties, restrictions and liabilities set forth in all general laws which now are, or may hereafter be in force, applicable to such corporations.

Corporators.

Name and purpose.

Powers and duties.

SECTION 2. The said corporation may take and hold real and personal estate to an amount not exceeding one hundred and fifty thousand dollars, exclusive of books in its library, and collections of natural history and works of art in its museum.

Real and personal estate.