

require to be more immediately accommodated for the purpose of receiving or discharging their cargoes, and as to the fact of their being fairly and actually employed in receiving or discharging their cargoes, the said harbor-master is hereby constituted the sole judge.

Penalty for refusing to obey instructions.

SECTION 10. Whoever shall refuse or neglect to obey the instructions of said harbor-master, or shall resist him in the execution of his duties, shall forfeit and pay a fine not exceeding fifty dollars.

Offenders liable in action of tort.

SECTION 11. Any person violating the provisions of this act, in addition to any fines imposed in accordance herewith, shall be liable in an action of tort to any person suffering damage by such violation.

Copy of act to be furnished to shipmasters.

SECTION 12. It shall be the duty of the harbor-master to place in the hands of the master of every vessel arriving at the port of Fall River a copy of this act.

SECTION 13. This act shall take effect upon its passage.

Approved April 9, 1872.

Chap. 187 AN ACT TO PROVIDE FOR THE UNIFORM ENLISTMENT OF BANDS EMPLOYED IN THE MILITIA SERVICE.

Be it enacted, &c., as follows :

Band of eighteen musicians allowed to each regiment, battalion and unattached company.

SECTION 1. The commander of a regiment, battalion or unattached company, may raise by voluntary enlistment, and warrant and organize within the limits of his command, to be under his direction and command at encampments, or at any parade ordered by the commander-in-chief, a band of musicians, not to exceed eighteen, inclusive of a master and deputy-master.

Repeal.

SECTION 2. So much of section twenty-three, chapter two hundred and nineteen of the acts of the year eighteen hundred and sixty-six as is inconsistent herewith, is hereby repealed.

Approved April 10, 1872.

Chap. 188 AN ACT TO SUPPLY THE TOWNS OF CONCORD AND LINCOLN WITH PURE WATER.

Be it enacted, &c., as follows :

Concord and Lincoln to be supplied with pure water.

SECTION 1. The town of Concord is hereby authorized to supply itself and its inhabitants with pure water to extinguish fires, generate steam, and for domestic and other uses, and may establish public fountains and hydrants, and regulate their use, and discontinue the same, and may collect such rents as may be fixed for the use of such water.

May take water from Sandy Pond in Lincoln.

SECTION 2. Said town, for the purposes aforesaid, may take and hold the waters of Sandy Pond, so called, in the town of Lincoln, and the waters which flow into and from the same, and may also take and hold, by purchase or other-

wise, all necessary lands for raising, flowing, holding, diverting, conducting, purifying and preserving such waters, and conveying the same to any and all parts of said town of Concord, and may erect thereon proper dams, reservoirs, buildings, fixtures and other structures, and make excavations and embankments, and procure and run machinery therefor; and for such purposes may construct and lay down conduits, pipes and drains in, under or over any lands, water-courses or railroads, and along any street, highway, alley or other way, in such manner as not to unnecessarily obstruct the same; and for the purpose of constructing, laying down, maintaining and repairing such conduits, pipes and drains, and for all other proper purposes of this act, may dig up, raise and embank any such lands, street, highway, alley or other way, in such manner as to cause the least hindrance to travel thereon: *provided*, that within ninety days after the time of taking any lands, waters or water-courses as aforesaid, otherwise than by purchase, said town shall file in the registry of deeds for the southern district of the county of Middlesex, a description thereof sufficiently accurate for identification, with a statement of the purpose for which the same is taken, signed by the water commissioners hereinafter named.

May build aqueducts, erect dams, etc.

May dig up highways.

Proviso.

SECTION 3 Said town of Concord shall be liable to pay all damages sustained by any persons or corporations in their property by the taking of any lands, water or water-rights, or by the construction of any aqueducts or other works for the purposes aforesaid. If any person or corporation sustaining damages as aforesaid, cannot agree with the town upon the amount of such damages, they may have them assessed in the manner provided by law with respect to land taken for highways; but no application shall be made to the county commissioners for the assessment of damages for the taking of water-rights, until the water is actually taken and diverted by said town. Any person whose water-rights are thus taken or affected, may apply as aforesaid within three years from the time the water is actually withdrawn or diverted, and not thereafterwards.

Liability for damages.

No application to be made for assessment of damages, until water is actually taken by the town.

SECTION 4. For the purpose of paying all necessary expenses and liabilities incurred under the provisions of this act, said town of Concord shall have authority from time to time to issue notes, bonds or scrip, signed by the treasurer and countersigned by the chairman of the selectmen, to be denominated "Concord Water Loan," to an amount not exceeding fifty thousand dollars, payable at periods not exceeding thirty years from the date thereof, with interest payable

"Concord Water Loan" not to exceed \$50,000.

semi-annually, at a rate not exceeding six per centum per annum; and said town may sell said bonds at public or private sale, or pledge the same for money borrowed for the purposes of this act, upon such terms and conditions as it may deem proper, and may raise money by taxation to pay said bonds and interest thereon when due; but said town shall not raise more than five thousand dollars in any one year to pay the principal of said bonds, except the year in which the same may become due.

Water board to consist of treasurer, chairman of selectmen, and three inhabitants to be chosen by ballot.

SECTION 5. The treasurer of said town and the chairman of the selectmen, *ex officio*, and three persons to be elected by ballot by the said inhabitants, as hereinafter provided, shall form a board of water commissioners, who shall execute, superintend and direct the performance of all the works, matters and things mentioned in this act, and exercise all the rights, powers and privileges hereby granted, and not otherwise specifically provided for herein, subject to the vote of said town.

Term of office of commissioners.

SECTION 6. At any special or annual meeting of the inhabitants of said town, called for the purpose, one of the three persons to be chosen according to the provisions of the preceding section, shall be elected for a term ending one year, one for a term ending two years, and one for a term ending three years from the next succeeding annual town meeting, after which first election, one of said board, as his term expires, shall be elected at the annual town meeting for the term of three years. Said commissioners shall receive such salaries or compensation as the said town by vote may prescribe, and a majority of said commissioners shall be a quorum for the exercise of the powers and duties prescribed by this act.

Compensation.

Price of water to be so fixed as to pay interest and one per cent. of principal of water loan.

SECTION 7. Said water commissioners shall establish such prices 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 on the "Concord Water Loan," and also after three years from the introduction of the water into said town, for the further payment of not less than one per centum of the principal of said bonds. The net surplus income and receipts, after deducting all expenses, interest and charges of distribution, shall be set apart as a sinking fund, to be held by the trustees of town's donations, and applied solely to the payment of the principal of said bonds until the same are fully paid and discharged. The said water commissioners shall annually, and as often as said town may require, render an account of all their doings in relation thereto.

Sinking fund.

SECTION 8. At any time after the expiration of three years from the introduction of said water into said town, and before the reimbursement of the principal of said Concord water loan, if the surplus income and receipts for the use of the water distributed under this act, at the price established by the water commissioners, after deducting all expenses and charges of distribution, shall, for any two successive years be insufficient to pay the accruing interest on the said loan and the one per centum to the sinking fund as aforesaid, then the supreme judicial court, or any justice thereof, on the petition of twenty-five or more of the legal voters of said town, praying that the said price of said water be increased so far as may be necessary for the purpose of paying, from the said surplus income and receipts, the said accruing interest and the said one per centum to the sinking fund, and upon due notice of the pendency of such petition, given to said town in such manner as said court shall order, may appoint three commissioners, who upon due notice to the parties interested, may raise and increase the said price if they shall judge proper, so far as may be necessary for the purpose aforesaid, and no further; and the award of said commissioners, or the major part of them, being returned to said court at the next term thereof for the county of Middlesex, and accepted by said court, shall be binding and conclusive for the term of three years next after the said acceptance, and until the price so fixed shall, after said term, be changed by the said water commissioners or by said town.

If surplus income is not sufficient to pay interest, etc., S. J. C. may appoint commissioners who may raise the price of water.

Award of commissioners to be binding for three years.

SECTION 9. The occupant of any tenement or building shall be liable for the payment of the rent for the use of the water in such tenement or building, and also the owner thereof shall be liable, if, on being notified of such use, he does not object in writing thereto.

Occupants of tenement liable for use of water.

SECTION 10. Any person who shall use any of said water, except the town, and the inhabitants of the town of Lincoln, without the consent of the town, or who shall wantonly or maliciously divert the water or any part thereof, taken, held or used under the provisions of this act, or who shall wantonly or maliciously corrupt the same or render it impure, or who shall wantonly or maliciously destroy or injure any dam, conduit, aqueduct, pipe or hydrant, or other property, real or personal, held, owned or used by the said town for the purposes of this act, shall pay three times the actual damage to said town, to be recovered by an action of tort. Any such person, on conviction of either of the wanton or malicious acts aforesaid, shall be punished by fine not exceeding one

Penalty for unlawfully using or maliciously diverting water or rendering the same impure.

hundred dollars, or imprisonment not exceeding six months, or both said penalties.

Provisions concerning Concord to be applied to Lincoln.

Subject to acceptance by vote of town.

SECTION 11. All the provisions of this act concerning the town of Concord, shall apply to the town of Lincoln; and if, in the future, the water of said pond shall prove insufficient for both, the town of Lincoln shall be first supplied.

SECTION 12. This act shall be void, as regards either town of Concord or Lincoln, unless accepted by a majority of legal voters of such town present and voting thereon, at a legal meeting held for the purpose within one year from the time this act goes into effect.

SECTION 13. This act shall take effect upon its passage.

Approved April 10, 1872.

Chap. 189

AN ACT RELATING TO SMALL-POX.

Be it enacted, &c., as follows:

Amendment to G. S. 20, § 51.

SECTION 1. Section fifty-one of the twenty-sixth chapter of the General Statutes is hereby amended by inserting after the word forty-six the following: so far as they confer authority for the removal of patients from their homes, except in case of persons residing in boarding-houses, hotels, or where two or more families occupy the same dwelling, and in all other cases where in the opinion of the board of health and the attending physician the case cannot be properly isolated.

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

Approved April 12, 1872.

Chap. 190

AN ACT TO RE-ESTABLISH THE ALEWIFE AND OTHER FISHERIES IN THE TOWNS OF BRIDGEWATER, WEST BRIDGEWATER, EAST BRIDGEWATER AND HALIFAX.

Be it enacted, &c., as follows:

Fishways to be erected and maintained by owners of dams.

SECTION 1. The owners and proprietors of the dams on the Town River, in the towns of Bridgewater and West Bridgewater, on the Satucket River, in the town of East Bridgewater, and on the Monponset River or brook, in the town of Halifax, are hereby required to erect and maintain fish-ways over or around said dams, and shall be subject to all the powers given to the commissioners on inland fisheries by chapter three hundred and forty-four of the acts of the year eighteen hundred and sixty-seven, and chapter three hundred and eighty-four of the acts of the year eighteen hundred and sixty-nine.

Herrings, alewives and shad not to be caught before May 1, 1875.

SECTION 2. No person shall take, catch, or cause to be taken or caught, by any means whatsoever, in any of said rivers or their tributaries, or the ponds out of which said rivers or tributaries flow, any of the fish called herrings,