

SECTION 2. The twenty-second section of the one hundred and sixty-fifth chapter of the General Statutes is hereby repealed: *provided*, this repeal shall in no wise affect the prosecution of any offence heretofore committed.

G. S. 165, § 22 repealed.

Approved March 11, 1867.

AN ACT TO AUTHORIZE THE TOWN OF MEDFORD TO PROCURE A SUPPLY OF WATER.

Chap. 60.

Be it enacted, &c., as follows :

SECTION 1. The city of Charlestown is hereby authorized to supply the town of Medford with water for the extinguishment of fires and for other uses ; and for this purpose may erect and maintain such structures as may be requisite and necessary therefor, and may extend their aqueduct into and through said town of Medford, upon such terms and conditions as may be agreed upon between said city and said town.

City of Charlestown may supply as shall be agreed with said town.

SECTION 2. The town of Medford is hereby authorized to purchase a supply of water from said city of Charlestown, upon such terms as may be agreed upon between said city and said town ; and may erect and maintain such works and structures as may be requisite and necessary for the introduction of water from the works of said city of Charlestown to the said town of Medford, and the distribution thereof in said town of Medford.

Town of Medford may purchase.

May erect structures for supply and distribution.

SECTION 3. Said city and town may either of them take by purchase or otherwise and hold any land or real estate necessary for said purposes. 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, water or water rights, or by the constructing of any aqueducts, reservoirs or other works, by said city under authority of this act ; and said town of Medford shall be liable to pay all damages that shall be sustained by any persons in their property by the taking of any land, water or water rights, or by the constructing of any aqueducts, reservoirs or other works by said town under authority of this act. And if the owner of any land, water or water rights, 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, water or water rights, or sustaining 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 fourth section of this act. Such petition may be filed in the clerk's office of said court, in vacation or

City or town may take estate ; shall be liable for damages.

Person sustaining damage may apply to superior court for assessment.

Petition for ; summons and return upon.

in term time, and the clerk shall thereupon issue a summons to the city of Charlestown, or town of Medford, as the case may be, returnable, if issued in vacation, to the then next term of the said court, and if in term time, returnable on such a 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, or chairman of the selectmen or clerk of said town; and the said court may, upon default or hearing of the said city or town, appoint three disinterested freeholders of this Commonwealth, 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 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.

Service of summons.

Court may appoint commission whose award if court accept, shall be final, unless jury be claimed.

Party sustaining damage and failing to claim for twelve months, city or town may enter suit.

Party notified and failing to appear to be barred recovery.

Party dissatisfied may have jury to determine.

Verdict being of record to be final.

Costs, how recovered.

SECTION 4. Whenever any damages shall have been sustained by any persons as set forth in the third section of this act, and such persons shall neglect to institute proceedings against said city or town, as the case may be, according to the provisions of this act, for the space of twelve months, it shall be lawful for said city or town, as the case may be, to commence such proceedings, which shall go on and be determined in the same 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.

SECTION 5. If either of the parties mentioned in the third 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 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.

SECTION 6. For the purpose of defraying the costs and expenses of such introduction and distribution under the second section, the town of Medford from time to time, may authorize the issue of scrip, notes or certificates of debt, to be denominated Water Bonds of the Town of Medford, to an amount not exceeding one hundred thousand dollars, bearing interest not exceeding six per centum per annum, which shall be redeemable at a period of time not less than one nor more than fifty years from and after the issue of said scrip, notes or certificates respectively, and may authorize the selectmen to sell the same, or any part thereof, from time to time at public or private sale, for the purpose aforesaid, on such terms and conditions as the said town shall prescribe.

Town of Medford may issue water bonds.

Interest and redemption.

May sell on terms to be prescribed.

SECTION 7. In case the said town and city shall agree upon the payment of a specific sum in gross as a charge or rental for the use of said water, within the limits of the town of Medford, said town shall then and so long as such agreement shall continue in force be authorized from time to time to 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 introduction and distribution in said town of 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. The selectmen of said town shall in such case have full powers for the management of such works and the distribution of said water, and 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 interest, but 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 the town without the consent of the town, an action of tort may be maintained against him or them for the recovery of damages therefor.

Municipalities agreeing upon gross rental for use of water in Medford, town may pass by-laws to preserve works.

Proviso: must be under law and subject to legislature.

Selectmen may manage works and fix rent for use of water.

Occupant and owner of tenement, how liable.

Remedy for use of water without consent of town.

SECTION 8. The work of laying pipes and any other structures necessary to carry water from the works of said city of Charlestown across the Mystic River, shall be under the direction of the harbor commissioners.

Pipes across Mystic River, harbor commissioners to direct laying

Voters of Medford to approve provisions of act.

SECTION 9. The provisions of this act shall be void unless submitted to and approved by the voters of the town of Medford, at a legal town meeting held within two years from the passage of this act.

Approved March 11, 1867.

Chap. 61. AN ACT AUTHORIZING AN INCREASE OF THE CAPITAL STOCK OF THE LAWRENCE GAS COMPANY.

Be it enacted, &c., as follows :

May add \$100,000 and invest in estate.

SECTION 1. The Lawrence Gas Company is hereby authorized to increase its capital stock, by adding thereto one hundred thousand dollars, and to invest such portion thereof in real and personal estate as may be necessary and convenient for carrying on the business for which said company was incorporated.

Par value of shares.

SECTION 2. No stock issued under this act shall be issued for a less sum than the par value of the original shares.

SECTION 3. This act shall take effect upon its passage.

Approved March 11, 1867.

Chap. 62. AN ACT TO INCORPORATE THE MANUFACTURERS' GAS COMPANY OF FALL RIVER.

Be it enacted, &c., as follows :

Corporators.

SECTION 1. John S. Brayton, Charles P. Stickney, Jesse Eddy, their associates and successors, are hereby made a corporation, by the name of the Manufacturers' Gas Company, for the purpose of manufacturing and selling gas in the city of Fall River; with all the powers and 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 relating to such corporations.

Title.

General privileges and restrictions.

May open ground in streets on leave of mayor and aldermen, for corporate purpose.

SECTION 2. Said corporation, with the consent of the mayor and aldermen of said city, shall have power and authority to dig up and open the grounds in any of the streets, lanes and highways in said city, for the purpose of sinking and repairing such pipes and conductors as may be necessary to accomplish the object of the corporation, and for the purpose aforesaid; but such consent shall not affect the right or remedy to recover damages for any injury which shall be caused to persons or property by the doings of such corporation. They shall put all such streets, lanes and highways which are opened, into as good repair as they were in when they were opened, and upon failure so to do within a reasonable time, shall be deemed guilty of a nuisance. The mayor and aldermen of said city shall at all times have power to regulate, restrain and control all acts and doings of the said corporation, which may in any manner affect the health,

May be held for damages.

Shall restore streets and ways opened.

Mayor and aldermen may control all acts affecting persons or property.