

sold or negotiated at public or private sale, upon such terms and conditions as said town may deem proper.

P. S. 29 and amendments to apply.

SECTION 2. The provisions of chapter twenty-nine of the Public Statutes and the acts amendatory thereof shall in all other respects apply to the issue of said bonds, notes or scrip.

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

*Approved May 17, 1893.*

*Chap. 363* AN ACT TO CONFIRM THE PROCEEDINGS OF THE CITY OF CAMBRIDGE IN TAKING CERTAIN LAND IN SAID CITY BY EMINENT DOMAIN.

*Be it enacted, etc., as follows :*

Proceedings in taking of certain land confirmed.

The action of the city of Cambridge on the first day of November in the year eighteen hundred and ninety-two, by an order approved by the mayor on the second day of November in the same year, in taking certain lands and buildings by eminent domain near the shores of Fresh pond in said city, under and by virtue of the power conferred by chapter one hundred and thirty-seven of the acts of the year eighteen hundred and eighty-eight is hereby ratified and confirmed. *Approved May 17, 1893.*

*Chap. 364* AN ACT TO PROVIDE AN ADDITIONAL WATER SUPPLY FOR THE CITY OF SALEM.

*Be it enacted, etc., as follows :*

Additional water supply for the city of Salem and town of Beverly.

SECTION 1. The city of Salem, for the purpose of providing a further supply of water for the use of said city and its inhabitants, and for the town of Beverly and its inhabitants, as authorized by chapter two hundred and sixty-eight of the acts of the year eighteen hundred and sixty-four and acts in amendment thereof and supplementary thereto, and by chapter two hundred and ninety-four of the acts of the year eighteen hundred and eighty-five, may from time to time take and hold, by purchase or otherwise, in addition to the waters it has been heretofore authorized to take, and may convey to any and all parts of said city through its pipes already existing or authorized by law, and may convey into Wenham lake, the waters of Norwood and Beaver ponds in the town of Beverly, the waters of Miles river in the towns of Beverly and Wenham, and the waters of any and all streams, springs and water sources within the watershed of said

Norwood and Beaver ponds and of said Miles river and their tributaries and confluents, and all water rights connected therewith; and may take, hold and convey as aforesaid the waters of Longham meadow, so-called, in the towns of Beverly and Wenham, and all rights of flowage appurtenant to the same, and the waters of any and all streams, springs and water sources within the watershed of said meadow, or which can be collected by constructing a dam or dams at or below such meadow, and all water rights connected with the same; and may take and hold as aforesaid any and all lands, property, rights of way and easements that may be necessary for holding, storing, conveying, distributing and preserving the purity of any and all said waters as aforesaid, and for effectually carrying out the objects of this act; and may erect on any lands so taken proper dams, reservoirs, storage basins, fixtures, structures, machinery and apparatus; may make such excavations and embankments and provide such other means as may be necessary or advisable for such purposes; and may construct and lay down such conduits, canals, pipes or other works, under, through or over any lands, water courses, railroads and private ways in said Beverly and Wenham as it may deem necessary or advisable for taking said waters and adding the same to the present water supply of said city and town of Beverly, that the same may be conveyed into said city through the pipes now in use by it to convey water therein; and for all proper purposes of this act may dig up any such lands and any such public way in such manner as to cause the least hindrance to public travel: *provided*, that no such taking shall be valid unless made with the consent of the water board of said town of Beverly, previously obtained in writing, signed by said water board, or unless previously authorized as provided in section two of this act.

Additional water supply for the city of Salem and town of Beverly.

Written consent of Beverly water board to be obtained.

SECTION 2. In case the water board of said town of Beverly shall fail to give its consent to the taking of any lands, rights of way, water rights, water sources or easements as aforesaid which said city of Salem may desire to take, and for the taking of which said city shall have requested such consent, for one month after such request, then, upon application of said city and notice to said water board, and town of Beverly, the matter in controversy shall be determined by three commissioners to be

Proceedings in case Beverly water board fails to consent.

appointed by the superior court in the county of Essex, whose award when accepted by said court shall be binding upon all parties. And in case that said award shall be that said water board give such consent, then such taking shall be valid in like manner as if such consent had been given.

A description of lands, etc., taken to be recorded in registry of deeds, etc.

SECTION 3. The city shall within ninety days after the taking of any lands, rights of way, water rights, water sources or easements as aforesaid, otherwise than by purchase, file and cause to be recorded in the southern district of the registry of deeds for Essex county, a description thereof sufficiently accurate for identification, with a statement of the purpose for which the same were taken, signed by the water board of said city, and the written consent of the water board of said town of Beverly, signed as provided in section one of this act, or instead thereof a duly certified copy of an award as provided in section two of this act.

Lands in Wenham and Beverly may be examined, surveyed, etc.

SECTION 4. Said city, its officers and agents, may, so far as they deem it necessary in carrying out the work authorized by section one of this act, or for the purpose of ascertaining what additional supply of water, whether authorized by law or not, is possible for said city, and of determining in what manner said additional supply can best be obtained, enter into and upon any lands within the towns of Wenham or Beverly, and there make such examinations and surveys, and place and maintain such monuments and marks as and where they may deem necessary.

Damages.

SECTION 5. Said city shall pay all damages sustained by any person or corporation in property by the taking of any land, right of way, water, water source, water right or easement, or by any other thing done by said city under the authority of this act. Any person or corporation sustaining damages as aforesaid under this act, who fails to agree with said city as to the amount of damages sustained, may have the damages assessed and determined in the manner provided by law when land is taken for the laying out of highways, on application at any time within the period of three years from the taking of such land or other property or the doing of other injury under the authority of this act; but no such application shall be made after the expiration of said three years: *provided*, that no application for the assessment of damages

shall be made for the taking of any water, water right, or for any injury thereto, and that said period of three years shall not begin to run until the water is actually withdrawn or diverted by said city under the authority of this act.

SECTION 6. In every case of an application for the assessment of damages, or for any injury, the said city may offer in court and consent in writing that a sum therein specified may be awarded as damages to the complainant; and if the complainant shall not accept the same within ten days after he has received notice of such offer, and shall not finally recover a greater sum than the sum offered, not including interest on the sum recovered, in damages from the date of the offer, the said city shall be entitled to recover its costs after said date, and the complainant, if he recovers damages, shall be allowed his costs only to the date of the offer.

City may offer a specified sum, etc.

SECTION 7. The said city may, for the purpose of paying the necessary expenses and liabilities incurred under the provisions of this act, borrow money from time to time and issue therefor negotiable bonds, notes and scrip to an amount not exceeding in the aggregate two hundred thousand dollars; such bonds, notes or scrip shall be signed by the treasurer of said city and countersigned by the mayor, and shall be denominated on the face thereof, City of Salem Water Loan, Act of 1893, shall be payable at the expiration of periods not exceeding thirty years from the date of issue, and shall bear such rate of interest, not exceeding six per cent., as the city council of said city may determine. The said city may sell such securities at public or private sale, or pledge the same for not less than the par value thereof, for money borrowed for the purposes aforesaid, upon such terms and conditions as it may deem proper, and may make payable annually a fixed proportion of the principal of said bonds, notes or scrip; and said city shall raise annually by taxation the amount required to meet such interest and the proportion of the principal payable annually. The sinking funds of any loan of said city may be invested in said bonds, notes or scrip.

City of Salem Water Loan, Act of 1893.

SECTION 8. The town of Beverly, for the purpose of paying to the city of Salem any portion of the necessary expenses and liabilities incurred under the provisions of this act, for which it may be liable to said city, may

Town of Beverly water bonds.

borrow money from time to time and issue therefor negotiable bonds, notes and scrip to the amount of such liability to said city, as it may be incurred and become due; such bonds, notes or scrip shall be signed by the treasurer of said town and countersigned by a majority of the board of selectmen of said town, and shall be payable at the expiration of periods not exceeding thirty years from the date of issue, and shall bear such rate of interest, not exceeding six per cent., as the board of selectmen of said town shall determine. The said town may sell such securities at public or private sale or pledge the same for not less than the par value thereof, for money borrowed for the purposes aforesaid, upon such terms and conditions as it may deem proper, and may make payable annually a fixed proportion of the principal of said bonds, notes or scrip; and said town shall raise annually by taxation the amount required to meet such interest and the proportion of the principal payable annually. The sinking funds of any loan of said town may be invested in said bonds, notes or scrip.

Penalty for wilful corruption, pollution, etc., of waters, etc.

SECTION 9. Whoever wilfully or wantonly corrupts, pollutes or diverts any of the waters taken or held under this act, or injures any structure, work or other property owned, held or used by said city under the authority and for the purposes of this act, or burns or destroys any trees, wood or timber standing or being upon land taken or held under the authority of this act, shall forfeit and pay to said city three times the amount of damages assessed therefor, to be recovered in an action of tort; and upon conviction of either of the above wilful or wanton acts shall be punished by a fine not exceeding three hundred dollars or by imprisonment not exceeding one year.

Rights and powers of city of Salem and town of Beverly.

SECTION 10. The city of Salem shall have and exercise in relation to the further water supply authorized by the provisions of this act, similar rights and powers to those vested in said city by the provisions of said chapter two hundred and sixty-eight of the acts of the year eighteen hundred and sixty-four and acts in amendment thereof and supplementary thereto, so far as the same are not inconsistent with this act and may be applicable thereto; and the town of Beverly shall have the same rights to take water from any of the sources, storage basins or works acquired or constructed under the authority of this

act as it now has to take water from Wenham lake. Said town of Beverly shall upon demand annually pay to the city of Salem one third of the expenses which said city shall incur under the authority of this act, for the purpose of securing a sufficient supply of water for said city of Salem and said town of Beverly, and preserving the purity thereof, whether said expenses shall be for damages and costs for land, water rights and easements purchased or taken for said purposes, for damages on account of flowage or expense incurred in constructing works, or for water pipes and the laying thereof, or incurred by reason of any other thing done for the purpose aforesaid. And upon payment by said town to said city of the said one third of the expenses, damages and costs of any lands, water rights or easements taken or purchased under the authority of this act and for which said town of Beverly is obliged by the foregoing provisions to make such payment, said city shall execute and record a declaration of trust in or concerning said lands, water rights and easements, declaring that one undivided third part of the same is held in trust for said town and that said town is entitled to the beneficial enjoyment of said one undivided third part thereof. Said chapter two hundred and sixty-eight of the acts of the year eighteen hundred and sixty-four and acts in amendment thereof and supplementary thereto, and chapter two hundred and ninety-four of the acts of the year eighteen hundred and eighty-five, so far as the same are not inconsistent with this act and may be applicable thereto, shall apply to the water supply and all things appertaining thereto, authorized by the provisions of this act.

Town of Beverly to make annual payments to city of Salem.

City of Salem to make a declaration of trust, etc.

Provisions of law to apply.

SECTION 11. This act shall take effect upon its acceptance by the city council of the city of Salem, and by the inhabitants of the town of Beverly at a meeting duly called for that purpose.

To take effect upon acceptance.

*Approved May 18, 1893.*

AN ACT TO FIX THE TIME OF CAPITAL TRIALS.

*Chap. 365*

*Be it enacted, etc., as follows:*

SECTION 1. Nothing contained in section four of chapter three hundred and seventy-nine of the acts of the year eighteen hundred and ninety-one shall be construed to repeal, amend or affect section thirty-eight of chapter two hundred and thirteen of the Public Statutes.

Time of capital trials.

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

*Approved May 18, 1893.*