

tion shall furnish a copy of the "Massachusetts Teacher" to each board of school committee in the several cities and towns in the Commonwealth, during the year eighteen hundred and seventy-three, and furnish satisfactory evidence thereof to the auditor of accounts.

County teachers' associations.

For county teachers' associations, a sum not exceeding three hundred dollars.

American institute of instruction.

For the American Institute of Instruction, the sum of three hundred dollars, to be paid to the president of said institution in the month of August next.

Income of Rogers book fund.

The income of the Rogers book fund shall be expended in accordance with the conditions named by the donor, in conformity with chapter two hundred and fifteen of the acts of eighteen hundred and fifty-seven.

Income of Todd normal school fund.

The income of the Todd normal school fund shall be paid to the treasurer of the board of education, to be applied by said board in accordance with chapter thirty-six of the General Statutes.

Income of agricultural college fund.

The income of the Agricultural College fund shall be paid in accordance with the provisions of chapter one hundred and eighty-six and chapter two hundred and twenty of the acts of eighteen hundred and sixty-three.

Unexpended balance of income of school fund.

SECTION 2. The unexpended balance of the moiety of the income of the school fund applicable to educational purposes for the year eighteen hundred and seventy-two, shall be added to such moiety of the income of said fund for the current year.

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

*Approved April 25, 1873.*

*Ch.* 242.

AN ACT IN ADDITION TO THE ACTS RELATING TO THE ARLINGTON LAKE WATER COMPANY.

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

Purchase of franchise and property of the Arlington Lake Water Company ratified and confirmed.

SECTION 1. The purchase of the franchise, property, rights and privileges, of the Arlington Lake Water Company, by the town of Arlington, and the transfer and conveyance thereof by said corporation to said town, is ratified and confirmed; and said town may take, hold and convey into and through the town of Arlington the waters of Sucker Brook and the tributaries thereof, of the springs, brooks and watershed of the meadows lying near said Sucker Brook and its tributaries, and of the Great Meadows lying in the easterly part of the town of Lexington, from Lewis' Mills, or any point westerly of said mills, within the watershed of Sucker or Munroe and

North Brooks, for the purpose of collecting and securing a supply of pure water for the inhabitants of the town of Arlington; and for this purpose said town, in addition to the rights, powers and authority already and herein conferred upon said town, shall have, exercise and enjoy all the rights, powers and authority conferred upon said Arlington Lake Water Company by the acts to which this act is in addition, and shall exercise all of said rights, powers and authority, subject to the restrictions, duties and liabilities herein and in said acts contained, except as herein otherwise provided, by such officers and agents as said town may, from time to time, choose, appoint and direct. Such officers and agents shall be subject to such ordinances, rules and regulations, in the execution of their trust, as the town may from time to time establish, not inconsistent with this act and the laws of the Commonwealth. And the acts of said town, and of its officers and agents, in execution of the purposes of this act and of the acts to which this act is in addition, so far as the same may appear to be invalid from any want of authority on the part of said town, are authorized, ratified and confirmed.

Rights, powers and duties conferred upon the town.

SECTION 2. Said town may build aqueducts and maintain the same by any works suitable therefor; it may erect and maintain dams to raise and retain the water taken and collected; it may construct and maintain reservoirs within or without said town of Arlington, but not within the town of Lexington, except within the limits described in the preceding section; it may make, erect and maintain, and carry on such other works as may be necessary and proper for raising the water into the reservoirs, and forcing and distributing it through and about said town; it may, from time to time, make and establish public hydrants and fountains in such places within its limits as it may deem proper, and it may prescribe the purposes for which the same may be used, and change or discontinue the same; it may distribute the water within its limits, and for this purpose may lay down pipes to any house or building, the owner or owners thereof having notice and not objecting thereto; it may regulate the use of said water, and establish, receive and collect the prices or rents to be paid therefor; it may, for the purposes aforesaid, carry, conduct and maintain any aqueducts, pipes or other works by it made, laid down or

Town may build aqueducts and maintain dams and reservoirs.

May regulate use of water and establish water-rates.

conducted, over, under, through or across any water-course, canal, street, bridge, railroad, highway or other way, in such a manner as not to obstruct travel or the free use thereof; it may enter upon and dig up any such road, street or way for the purpose of laying down pipes beneath the surface thereof, and for maintaining and repairing the same; and in general it may do all things necessary or convenient and proper for carrying out the purposes of this act, and the acts to which this act is in addition.

• May take and hold real estate.

SECTION 3. Said town for the purposes aforesaid may take and hold, by purchase or otherwise, such real estate as may be necessary for collecting and securing a supply of water as aforesaid, and for preserving the purity thereof, and may also take and hold, in like manner, such lands as may be necessary for erecting and maintaining dams and reservoirs, and for laying and maintaining conduits, pipes, drains and other works, for collecting, retaining, conducting and distributing such waters within its limits, and for discharging and disposing of said waters. The said town shall, within sixty days from the time of taking any land as aforesaid, file in the registry of deeds for the southern district of the county of Middlesex, a description of the land so taken, sufficiently accurate for identification, and state the purpose for which it is taken.

Liability of town for damages.

SECTION 4. Said town shall be liable to pay all damages sustained by any person or persons in their property by the taking of any land, rights of way, water, water-rights or easements, or by the erection of any dams, or by the construction of any aqueducts, reservoirs, water-ways or other works for the purposes aforesaid; and if the owner or owners of any property taken as aforesaid, or other person or persons sustaining damage as aforesaid, shall not agree on the damages to be paid therefor, he or they at any time within three years from the taking of the said property, or the sustaining of damages as aforesaid, may apply for an assessment of damages by petition to the superior court in the county in which the property is situated. 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 said town of Arlington, returnable, if issued in vacation, at the next term of the said court, to be held after the expiration of

fourteen days from the filing of said petition; and if in term-time, returnable on such day as 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 clerk of said town; and the said court may, upon default or hearing of said town, 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 so appointed, or a 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 said parties shall claim a trial by jury as hereinafter provided.

Commissioners may be appointed to assess damages.

SECTION 5. If either of the parties mentioned in the fourth section shall be dissatisfied with the amount of damages awarded, as therein expressed, such party, at the term at which such award may be accepted, or the next term thereafter, may 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 award for damages may have a trial by jury.

SECTION 6. In every case of a petition to the superior court for the assessment of damages, as provided in this act, the town 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 damages by him sustained or claimed in his petition; and if the complainant shall not accept the sum with his costs up to that time, but shall proceed in his suit, he shall be entitled to his costs up to the time of the tender of such payment into court, and not afterwards, unless the complainant shall recover greater damages than were so offered.

Town may make a tender for damages.

Application for damages not to be made until water is actually taken.

SECTION 7. No application shall be made to the court for the assessment of damages for the taking of any water or water-rights, or for any injury thereto, until the water is actually withdrawn or diverted by said town, under the authority herein given.

Arlington water scrip may be issued not exceeding \$150,000 at seven per cent. interest.

SECTION 8. For the purpose of defraying the cost of such franchise, corporate property, lands, water and water-rights as are taken, purchased or held for the purposes aforesaid, and for constructing works necessary and proper for the accomplishment of the purposes authorized by this act, and the acts to which this act is in addition, and of paying all damages, costs and expenses incident thereto, said town by its selectmen and treasurer, shall have authority to issue from time to time, notes, scrip or certificates of debt, to be denominated on the face thereof, Arlington Water Scrip, to an amount not exceeding one hundred and fifty thousand dollars, bearing interest not exceeding seven per centum per annum, payable semi-annually; the principal shall be payable at periods not more than twenty years from the issuing of said notes, scrip or certificates respectively. Said treasurer, under the authority of said town, may sell the same or any part thereof, from time to time, or pledge the same for money borrowed for the purposes aforesaid, on such terms and conditions as he may deem proper, or as may be prescribed by the town. Said town is further authorized to make appropriations and assess, from time to time, such amounts as it may deem proper, towards the payment of the principal of the money so borrowed, and also a sum sufficient to pay the interest thereof, in the same manner as money is assessed and appropriated for other town purposes; but said town shall not raise more than five thousand dollars in any one year to pay the principal of said scrip, except in the year in which the same or any part thereof may become due.

Town may make appropriations for payment of principal and interest.

Water commissioners to be elected.

SECTION 9. At a special meeting called for that purpose, to be held by said town in the year eighteen hundred and seventy-three, there shall be elected a board of three water commissioners, one for one year, one for two years, and one for three years, from the fourth day of March, in the year eighteen hundred and seventy-three, and annually thereafter at the annual meeting, as the terms expire, one commissioner shall be elected for three years.

Any vacancy which may occur in said board of commissioners may be filled at a meeting of the voters of said town, called and held for the purpose.

Said board of water commissioners 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 authority hereby granted, and not otherwise specially provided for herein; they shall have the general supervision and control of the use of the water, and the care, management and custody of the water-works of the town, and the property connected therewith, subject to the vote of the town. Said commissioners shall receive such salaries or compensation as 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 to be fixed by the town.

SECTION 10. Said water commissioners shall annually make a full report in writing to the town, at its annual meeting, of all their acts and doings and the condition of the property under their control, with such recommendations as they shall judge the interests of the town require; and shall make and present in said report an estimate of 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 Arlington water scrip, and also after three years from the first day of January, eighteen hundred and seventy-three, for the further payment of not less than one per centum of the principal of said scrip.

Commissioners to make full report to the town at its annual meeting.

SECTION 11. At any time after the expiration of three years from the first day of January, eighteen hundred and seventy-three, and before the payment of the principal of the said Arlington water scrip, if the surplus income and receipts for the use of water distributed under this act, at the price or rent established by the town, after deducting all expenses and charges of distribution, shall for any two successive years be insufficient to pay the accruing interest on said scrip, and the one per centum to the sinking fund herein provided for, then the supreme judicial court, or any justice thereof, on petition of fifty or more of the legal voters of said town, praying that said price or rent may be increased, so far as may be necessary for the purpose of paying, from said surplus income and receipts, said accruing interest, and said one

Water rates may be increased after three years, if income is not sufficient to pay accruing interest and one per cent. to sinking fund.

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 said price or rent 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 the said court at the next term thereof at the southern district of the county of Middlesex, and accepted by the said court, shall be binding and conclusive for the term of three years next after the said acceptance, and until the price or rent so fixed shall, after said term, be changed by said town.

Rates for use of water to be paid over to town treasurer.

SECTION 12. The prices or rents received for the use of water shall, when collected, be paid over to the treasurer of the town, and after deducting all charges of distribution and repairs and other expenses incident to the same, and after the payment therefrom of the semi-annual interest upon said scrip, shall be set apart with all amounts appropriated from time to time by said town, for the payment of the principal sum of said scrip, as a sinking fund, which with the accumulated interest upon the same shall be devoted solely to the payment of said scrip of said town at maturity. Said sinking fund may be invested in the scrip authorized by this act, at a price not exceeding its par value, or on such loans, or in such securities as by law the funds of savings banks may be invested in, except that no portion of the same shall be loaned directly or indirectly to said town, or upon mere personal security.

Sinking fund.

Water accounts to be kept separate from other accounts of the town.

SECTION 13. The treasurer of said town, shall keep separate accounts of said water rents and receipts, and of said charges, expenses and interest, and of said sinking funds, which accounts shall be kept apart from the other accounts of the town, and shall at all times be open to the inspection of the water commissioners of said town. The treasurer shall annually make a written report to the town, at its annual meeting, of the condition of said accounts, and of said sinking fund, and the changes of investment during the then preceding year. The selectmen and water commissioners shall jointly, as often as once in each year, examine the accounts and securities of the sinking fund, and shall report the result of their examination to the town, in connection with the report of the treasurer.

SECTION 14. The occupant of any tenement shall be liable for the payment of the rent or price for the use of the water in such tenement, and also the owner thereof shall be liable, if on being notified of such use he does not object thereto.

Occupant and owner of tenement liable for water rates.

SECTION 15. If any person shall use any of said water without the consent of said town, or shall wantonly or maliciously divert the water or any part thereof, or of the sources thereof, taken or held by said town, under the provisions of this act, or of the acts to which this act is in addition, or corrupt the same or render it impure, or destroy, injure, or unlawfully interfere with any dam, aqueduct, pipe, conduit, hydrant, machinery or other works or property held, owned or used by said town, under the authority and for the purposes of this act, or of the acts to which this act is in addition, he shall forfeit and pay to said town, three times the amount of damage assessed therefor, to be recovered in an action of tort, and on conviction of either of the wanton, malicious or unlawful acts aforesaid, may be also punished by fine not exceeding three hundred dollars, or by imprisonment in jail not exceeding one year.

Penalty for unlawfully using water or rendering it impure.

SECTION 16. This act shall take effect upon its passage.

*Approved April 25, 1873.*

AN ACT AUTHORIZING AN INCREASE OF THE CAPITAL STOCK OF THE MANUFACTURERS' GAS COMPANY OF FALL RIVER.

*Ch. 243.*

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

SECTION 1. The Manufacturers' Gas Company of Fall River may increase its capital stock, by adding thereto one hundred thousand dollars, and 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.

\$100,000 additional capital stock.

SECTION 2. No stock shall be issued under this act for a less sum than the par value of the original shares, and in the disposition of said new stock, the said company shall not be subject to the provisions of chapter thirty-nine of the acts of the year eighteen hundred and seventy-three.

Stock not to be issued at less than par value of original shares.

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

*Approved April 25, 1873.*

AN ACT TO INCORPORATE THE OLD COLONY WHARF COMPANY.

*Ch. 244.*

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

SECTION 1. Russell A. Ballou, Farrington McIntire, William Boynton, their associates and successors, are

Corporators.