

Jurisdiction of offences.

SECTION 5. The district court of Dukes County shall have concurrent jurisdiction with the superior court of all offences under this act.

Certain provisions of law not to apply.

SECTION 6. So much of section eighty-five of chapter ninety-one of the Revised Laws as is inconsistent herewith shall not apply to the town of Edgartown.

Approved April 9, 1903.

Chap. 217

AN ACT TO INCORPORATE THE ASHFIELD WATER COMPANY.

Be it enacted, etc., as follows :

Ashfield Water Company incorporated.

SECTION 1. Emory D. Church, Allison G. Howes, Frederick H. Smith, George R. Fessenden, Levant F. Gray, Charles A. Hall, Amos D. Daniels and M. M. Belding, their associates and successors, are hereby made a corporation by the name of the Ashfield Water Company, for the purpose of furnishing the inhabitants of the town of Ashfield with water for the extinguishment of fires and for domestic and other purposes ; with all the powers and privileges and subject to all the duties, restrictions and liabilities set forth in all general laws now or hereafter in force relating to such corporations.

May take certain waters, lands, etc.

SECTION 2. Said corporation, for the purposes aforesaid, may take, by purchase or otherwise, and hold the waters of Taylor brook in said town, and all the waters which flow into or from the same, together with any water rights connected therewith, and also all lands, rights of way and easements necessary for holding and storing such water and for conveying the same to any part of the said town, and for constructing and maintaining ponds : *provided*, that no source of water supply shall be taken for domestic purposes under this act without the advice and approval of the state board of health ; and may erect on the land so acquired, proper dams, buildings, fixtures and other structures, and may make excavations, procure and operate machinery, and provide such other means and appliances as may be necessary for the establishment and maintenance of complete and effective water works ; and may construct and lay conduits, pipes and other works, under and over any land, water courses, railroads, railways, or public or private ways, and along any such ways in such manner as not unnecessarily to obstruct the same ; and for the purpose of constructing, maintaining and repairing such conduits, pipes and other works, and for all

Proviso.

May erect structures, lay pipes, etc.

proper purposes of this act, said corporation may dig up such lands, and, under the direction of the selectmen of the towns in which any such ways are situated, may enter upon and dig up such ways in such manner as will cause the least hindrance to public travel.

SECTION 3. Said corporation shall within ninety days after the taking of any land, rights of way, water rights, water sources or easements as aforesaid, otherwise than by purchase, file and cause to be recorded in the registry of deeds for the county in which such lands or other property are situated, a description thereof sufficiently accurate for identification, with a statement signed by the president of the corporation of the purposes for which the same were taken, and the damages awarded therefor to any person or corporation.

Description
of land, etc.,
to be recorded.

SECTION 4. Said corporation shall pay all damages to property sustained by any person or corporation by the taking of any land, right of way, water, water source, water right or easement, or by any other thing done by the corporation under authority of this act. Any corporation or person sustaining damages as aforesaid, who fails to agree with the corporation as to the amount of damages sustained, may have them assessed and determined in the manner provided by law in the case of land taken for the laying out of highways, on application at any time within three years after the taking of such land or other property or the doing of other injury under authority of this act; but no such application shall be made after the expiration of said three years. No application for assessment of damages shall be made for the taking of any water or water rights, or for any injury thereto, until the water is actually withdrawn or diverted by the corporation under authority of this act.

Damages.

SECTION 5. Said corporation may distribute water through the town of Ashfield; may from time to time establish and fix the rates for the use of said water, and may collect the same; and may make such contracts with the said town, or with any fire district now or hereafter established therein, or with any individual or corporation, to supply water for the extinguishing of fires or for other purposes, as may be agreed upon between the parties.

Distribution
of water, etc.

SECTION 6. Said corporation may, for the purposes set forth in this act, hold real estate to a value not exceeding three thousand dollars, and its capital stock shall be

Real estate and
capital stock.

not more than twenty thousand dollars, divided into shares of one hundred dollars each.

Town, etc.,
may take
franchise,
property, etc.

SECTION 7. The town of Ashfield or any fire district therein may at any time during the continuance of the charter hereby granted, take by purchase or otherwise the corporate property and all the rights or privileges of said corporation, at a price which shall be equal to the sums expended by the said corporation in establishing and perfecting its plant and facilities; and the said corporation shall keep such detailed accounts of the sums paid by it for construction, for apparatus, and for the purchase of property, as shall be satisfactory to the selectmen of the town. In case said corporation and said town or fire district are unable to agree upon the purchase price estimated as aforesaid, then the same shall be determined by three commissioners to be appointed by the supreme judicial court upon application by either party and notice to the other, whose award when accepted by the court shall be binding upon all parties. This authority to purchase said franchise and property is granted on condition that the same is assented to by said town or fire district by a two thirds vote of the voters present and voting thereon at a legal meeting called for that purpose.

Corporation
may be re-
quired to give
satisfactory
security for
payment of
damages, etc.

SECTION 8. The selectmen of said town, upon the application of the owner of any land, water or water rights taken under this act, shall require said corporation to give satisfactory security for the payment of all damages and costs which may be awarded to such owner for the land or other property so taken; but before requiring such security the selectmen shall, if application therefor is made by either party, make an estimate of the damages which may result from such taking, and the selectmen shall in like manner require further security if at any time the security already required appears to them to be insufficient; and all the right of said corporation to enter upon or use such land or other property, except for making surveys or tests of the soil, shall be suspended until it gives the security as aforesaid.

Penalty for
corruption of
water, etc.

SECTION 9. Whoever wilfully or wantonly corrupts, pollutes or diverts any water taken or held under this act, or injures any structure, work or other property owned, held or used by said corporation under the authority and for the purposes of this act, shall forfeit and pay to said corporation three times the amount of damages assessed

therefor, to be recovered in an action of tort; and whoever is convicted of any of the above wilful or wanton acts shall be punished by a fine not exceeding three hundred dollars or by imprisonment for a term not exceeding one year.

SECTION 10. Said town may subscribe for and hold stock issued as aforesaid by the said water company, to an amount not exceeding three thousand dollars: *provided*, that the town shall vote so to do at an annual town meeting or at a meeting duly called for the purpose.

Town may hold stock issued by water company. Proviso.

SECTION 11. Said town may, for the purpose of paying the necessary expenses and liabilities incurred under the provisions of section ten, issue from time to time bonds, notes or scrip to an amount not exceeding three thousand dollars. Such bonds, notes or scrip shall bear on the face thereof the words, Ashfield Water Loan; shall be payable at the expiration of periods not exceeding thirty years from the dates of issue; shall bear interest payable semi-annually at a rate not exceeding four per cent per annum, and shall be signed by the treasurer and countersigned by the selectmen of the town. The town may sell such securities 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. Said town shall pay the interest upon the loan as it accrues, and shall provide for the payment of said principal at maturity by such annual proportionate payments as will extinguish the same within the time prescribed in this act. The amounts which may be necessary to make such payments shall without further vote of said town be raised by taxation in the same manner in which money is raised for town expenses. All income derived from said stock shall be applied in payment of the debt incurred under this act.

Ashfield Water Loan.

Payment of loan.

SECTION 12. Said town may at an annual town meeting, or at a meeting duly called for the purpose, vote to sell at public or private sale the whole or any part of its stock in said water company: *provided*, that no part of such stock shall be sold at less than the par value thereof.

Sale of stock.

Proviso.

SECTION 13. This act shall take effect upon its passage, but shall become void unless work is begun under it within three years after the date of its passage.

When to take effect.

SECTION 14. Chapter one hundred and twenty-nine of the acts of the year nineteen hundred and two is hereby repealed.

Repeal.

Approved April 9, 1903.