

City of Chicopee may take by purchase, etc., franchise, etc., at any time.

SECTION 9. The city of Chicopee shall have the right at any time to take, by purchase or otherwise, the franchise, corporate property and all the rights and privileges of said corporation, on payment to said corporation of the actual cost of its franchise, works and property of all kinds held under the provisions of this act, including in such cost interest on each expenditure from its date to the date of said purchase or taking, as herein provided, at the rate of five per cent. per annum. If the cost of maintaining and operating the works of said corporation shall exceed in any year the income derived from said works by said corporation or company for that year, then such excess shall be added to the total cost; and if the income derived from said works by said corporation exceeds in any year the cost of maintaining and operating said works for that year, then such excess shall be deducted from the total cost. An itemized statement of the receipts and expenditures of the said corporation shall be annually submitted to the city council of the city of Chicopee, and if said corporation has incurred indebtedness, the amount of such indebtedness outstanding at the time of such taking shall be assumed by said city and shall be deducted from the amount required to be paid by said city to said corporation under the foregoing provisions of this section. This authority to purchase such franchise and property is granted on condition that the purchase is assented to by said city by a two thirds vote of the voters of said city present and voting thereon; and the time and manner of taking such vote shall be determined by the city council.

Statement of receipts and expenditures to be made annually.

Work to be commenced within two years.

SECTION 10. This act shall take effect upon its passage, but shall become void unless work under it is commenced within two years from the date of its passage.

Approved May 31, 1892.

Chap. 322

AN ACT TO INCORPORATE THE MEDFIELD WATER COMPANY.

Be it enacted, etc., as follows:

Medfield Water Company incorporated; purpose, powers, duties, etc.

SECTION 1. Edwin V. Mitchell, Clinton T. Frost, Henry M. Parker, their associates and successors, are hereby made a corporation by the name of the Medfield Water Company, for the purpose of furnishing the town of Medfield and the inhabitants thereof with water for the extinguishment of fires and for domestic, manufacturing and other purposes; with all the powers and privileges and subject to the duties, restrictions and liabilities which

now are and may hereafter be in force applicable to such corporations, except as hereinafter provided.

SECTION 2. The town of Medfield may contract with said corporation to furnish water for the purposes aforesaid for any term of years, for such price as may mutually be agreed upon between said corporation and said town.

Town may contract with company for a water supply.

SECTION 3. Said corporation may take, hold and convey through the town of Medfield or any part thereof, so far as may be necessary for said purpose, the water of any spring or springs, or of any pond or ponds, or of any stream or streams within the town of Medfield, and may take and hold by purchase or otherwise any real estate necessary for the preservation and purity of the same or for erecting and maintaining a pumping station, and for laying and maintaining aqueducts and pipes for distributing the water so taken and held, or for forming any dams or reservoirs to hold the same, and may lay its water pipes through any private lands, with the right to enter upon the same and dig therein for the purpose of making all necessary repairs or service connections; and for the purposes aforesaid may carry its pipes under or over any water course, street, railroad, highway or other way, in such manner as not unnecessarily to obstruct the same, and may under the direction of the board of selectmen enter upon and dig up any road or other way for the purpose of laying or repairing its aqueducts, pipes or other works, and in general may do any other acts and things convenient or proper for carrying out the purpose of this act.

Corporation may take, etc., water of springs and ponds in town of Medfield, etc.

May dig up roads under direction of the selectmen, etc.

SECTION 4. Said corporation shall, within sixty days after the taking of any land or water rights under the provisions of this act, file in the registry of deeds of the county of Norfolk a description of any land or water rights so taken, sufficiently accurate for identification, with a statement of the purposes for which it is so taken; and the title of the land or water rights so taken shall vest in said corporation.

Description of lands, etc., taken, and statement of purposes, etc., to be filed in registry of deeds.

SECTION 5. Any person or corporation injured in any way by the taking of land and water rights as aforesaid, or by any act of said corporation as before provided, and failing to agree with said corporation as to the amount of damages, may have the same assessed and determined in the manner provided when land is 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

Assessment and determination of damages.

Application to be made within three years, etc.

by said corporation. 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 thereafter; and no suit for injury done under this act shall be brought after three years from the date of the alleged receipt of injury.

Real estate, capital stock and shares.

SECTION 6. Said corporation, for the purposes set forth in this act, may hold real estate not exceeding in amount twenty-five thousand dollars, and its whole capital stock shall not exceed fifty thousand dollars, to be divided into shares of one hundred dollars each.

May purchase other water works, etc.

SECTION 7. Said corporation may purchase from the owner or owners of any aqueduct or system of water works now used in furnishing water to any of the inhabitants of the said town of Medfield, his or their whole water right, estate, property and privileges, and by such purchase shall become entitled to all the rights and privileges and subject to all the liabilities and duties appertaining and belonging to such owner or owners.

May issue bonds and secure by mortgage, etc.

SECTION 8. The said corporation may issue bonds and secure the same by a mortgage on its franchise and other property to an amount not exceeding its capital stock actually paid in. The proceeds of all bonds so issued shall only be expended in the extension of the works of the company and for the payment of expenditures actually made in the construction of the works, over and above the amount of the capital stock actually paid in.

Town may take franchise and property at any time.

SECTION 9. The town of Medfield shall have the right at any time to take, by purchase or otherwise, the franchise, corporate property and all the rights and privileges of said corporation on payment to said corporation of the actual cost of its franchise, works and property of all kinds held under the provisions of this act, including in such cost interest on each expenditure from its date to the date of said purchase or taking, as herein provided, at the rate of five per cent. per annum. If the cost of maintaining and operating the works of said corporation shall exceed in any year the income derived from said works by said corporation or company for that year, then such excess shall be added to the total cost; and if the income derived from said works by said corporation exceeds in any year the cost of maintaining and operating said works for that year, then such excess shall be deducted from the total cost. An itemized statement of the receipts and expenditures of the said corporation shall be annually

Statement of receipts and expenses.

submitted to the selectmen of the town of Medfield, and by said selectmen to the citizens of said town. If said corporation has incurred indebtedness, the amount of such indebtedness outstanding at the time of such taking shall be assumed by said town and shall be deducted from the amount required to be paid by said town to said corporation under the foregoing provisions of this section. This authority to purchase such franchise and property is granted on condition that the purchase is assented to by said town by a two thirds vote of the voters of said town present and voting thereon at a meeting legally called for that purpose.

Authority to purchase to be assented to by a two thirds vote.

SECTION 10. The owners of land and water rights taken under this act, upon application by either party for an estimate of damages, may require said corporation to give security, satisfactory to the county commissioners of said county, for the payment of all damages and costs which may be awarded to them for the land or other property taken. And if upon petition of the owner, with notice to the adverse party, the security appears to the county commissioners of said county to have become insufficient, they shall require said corporation to give further security to their satisfaction; and all the right or authority of the corporation to enter upon or use said land and other property, except for making surveys, shall be suspended until it gives the security required.

May be required to give security for payment of damages and costs, etc.

SECTION 11. If any person shall use any of said water taken under this act, without the consent of said corporation, or shall wantonly or maliciously divert the water or any part thereof so taken, or corrupt the same, or render it impure, or destroy or injure any dam or aqueduct, pipe, conduit, hydrant, machinery or other works or property held, owned or used by said corporation under the authority of and for the purposes of this act, he shall forfeit and pay to said corporation three times the amount of damages assessed therefor, to be recovered in an action of tort; and on conviction of either of the wanton or malicious acts aforesaid may be punished by a fine not exceeding three hundred dollars or by imprisonment in jail not exceeding one year.

Penalty for corrupting or diverting water, etc.

SECTION 12. This act shall be null and void unless said corporation shall within three years from the passage thereof avail itself of its provisions and commence the prosecution of the work herein authorized.

Work to be commenced within three years.

Approved May 31, 1892.