

be required to furnish any greater accommodation at said stations than before the passage of this act.

Transient station may be abandoned.

SECTION 2. Any such corporation having established a depot for use during a part of each year only, shall not by this act be prohibited from discontinuing the use of the same.

Upon information of violation attorney-general may enjoin.

SECTION 3. In case of any violation of the provisions of this act, it shall be the duty of the attorney-general, at the relation of any ten legal voters of the town or city in which said station is located, to proceed in equity by information to enjoin said corporation from further violation of said provisions.

SECTION 4. This act shall take effect upon its passage.

*Approved April 29, 1865.*

*Chap. 176* AN ACT CONCERNING THE PITTSFIELD AND NEW HAVEN RAILROAD COMPANY.

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

Capital established.

SECTION 1. The capital stock of the Pittsfield and New Haven Railroad Company shall be five hundred thousand dollars, to be divided into shares of one hundred dollars each.

Act of '64 repealed.

SECTION 2. The fourth section of the one hundred and thirty-second chapter of the acts of the year one thousand eight hundred and sixty-four is hereby repealed.

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

*Approved April 29, 1865.*

*Chap. 177* AN ACT FOR SUPPLYING THE TOWN OF FITCHBURG WITH PURE WATER.

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

Corporators.

SECTION 1. Alvah Crocker, Charles Burleigh, James B. Lane, their associates and successors, are hereby made a corporation under the name of the Pearl Hill Water Company, for the purpose of furnishing the inhabitants of the town of Fitchburg with pure water; with all the powers and privileges, and subject to all the duties, restrictions and liabilities set forth in all general laws which are or may be hereafter in force, so far as the same are applicable to this corporation.

Title.

Purpose.

Powers and duties.

Corporation may take and convey certain waters for purpose.

SECTION 2. Said corporation, for the purpose aforesaid, may take, hold and convey to, into and through said town, the waters of Pearl Hill Brook, so called, in the town of Fitchburg, and the waters which flow into and from the same, and may take and hold by purchase or otherwise, such land on and around the margin of said brook, not exceeding five rods in width, as may be necessary for the preservation and purity of said waters; and may also take and hold, in like manner, such lands as may be necessary for erecting and

May take certain lands.

maintaining dams and reservoirs, and for laying and maintaining conduits, pipes, drains and other works, for collecting, conducting and distributing said waters through said town. The said corporation shall, within sixty days from the time of taking any land as aforesaid, file in the registry of deeds for the county of Worcester, a description of the land so taken, sufficiently accurate for identification, and state the purpose for which it is taken.

Description of lands to be filed in registry of deeds.

SECTION 3. The said corporation may build aqueducts, and maintain the same, by any works suitable therefor, may erect and maintain dams, may make reservoirs and hydrants, and may distribute the water throughout said town, by laying down pipes and may establish the rent therefor. Said corporation may also, for the purposes aforesaid, carry its pipes and drains over or under any water-course, street, railroad, highway or other way, in such manner as not to obstruct the same, and may enter upon and dig up any road, under the direction of the selectmen of the town of Fitchburg, in such manner as to cause the least hindrance to the travel thereon.

May build aqueducts and dams, reservoirs and hydrants.

Lay pipes and establish rents.

Manner of laying pipes and drains.

SECTION 4. The said corporation 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 for the purposes aforesaid. If any person who shall sustain damage as aforesaid, cannot agree with said corporation upon the amount of said damages, he may have them assessed in the same manner as is provided by law, with respect to land taken for highways; and all damages for the taking of lands for the purposes aforesaid shall be paid by said corporation before entering upon such lands.

Liability to parties for damages sustained.

Upon disagreement, damages may be assessed under law.

SECTION 5. No application shall be made to the county commissioners for the assessment of damages for the taking of any water rights until the water is actually withdrawn or diverted by said corporation. Any person whose water-rights are thus taken or affected may apply as aforesaid, at any time within one year from the time when the water is first actually withdrawn or diverted.

Assessment of damages for water rights, when to be made.

SECTION 6. The said corporation may hold for the purposes aforesaid, real estate to the amount of fifty thousand dollars; and its whole capital stock shall not exceed two hundred thousand dollars, which shall be divided into shares of one hundred dollars each.

Corporation may hold estate.

Capital stock.

SECTION 7. Any person who shall maliciously divert the water, or any part thereof, of the sources which shall be taken by the said corporation pursuant to the provisions of

Penalty for diversion and corruption of water or injury to works.

this act, or who shall maliciously corrupt the same or render it impure, or who shall maliciously destroy or injure any dam or reservoir, aqueduct, pipe or hydrant, or other property, held, owned or used by the said corporation, for the purposes of this act, shall pay three times the amount of actual damages, to the said company, to be recovered in an action of tort; and every such person, on conviction of either of the malicious acts aforesaid, shall be punished by fine not exceeding one hundred dollars, and imprisonment not exceeding six months.

Fitchburg may purchase property of company within one year.

Upon disagreement as to price S. J. Court may appoint commissioners to award.

Town may issue "water scrip" to defray cost of purchase.

Amount.

Interest.

Principal, when payable.

May sell or pledge scrip for money borrowed.

May appropriate and assess for payment of principal and interest.

Powers and duties of town in case of purchase.

SECTION 8. The town of Fitchburg may, at any time within one year from the passage of this act, purchase the corporate property, and all the rights and privileges of said corporation, at such price as may be agreed upon between the parties; and in case the said town shall by vote determine to purchase said property, rights and privileges, and the parties cannot agree upon the price to be paid therefor, the supreme judicial court may, upon application of either party, and notice to the other, appoint three commissioners who shall determine the price which the said town shall be required to pay for the same, and their award, when accepted by said court shall be final.

SECTION 9. For the purpose of defraying the cost of such property, lands, water and water rights, as shall be purchased for the purposes aforesaid, the town of Fitchburg, through its treasurer, shall have authority to issue, from time to time, notes, scrip or certificates of debt, to be denominated on the face thereof "Fitchburg Water Scrip," to an amount not exceeding two hundred thousand dollars, bearing interest at a rate not exceeding six per cent. per annum, which interest shall be payable semi-annually, and the principal shall be payable at periods not more than twenty years from the issuing of the said scrip, notes 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. Said town is further authorized to make appropriations, and assess, from time to time, such amounts, not exceeding in one year the sum of ten thousand dollars, towards paying 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.

SECTION 10. In case the town of Fitchburg shall purchase the property, rights and privileges of the corporation estab-

lished by this act, said town shall exercise all the rights, powers and authority, and be subject to all the restrictions, duties and liabilities herein contained, in such manner, and by such officers, servants and agents, as the selectmen shall from time to time, ordain, appoint and direct. And said town shall be liable to pay all damages occasioned by the diversion of any water, or the obstruction of any stream, or the flowing of any lands, for the purposes of said aqueduct, which shall not have been previously paid by said corporation.

Liability for damages.

SECTION 11. This act shall take effect upon its passage.

*Approved April 29, 1865.*

AN ACT TO CONFIRM THE ELECTION OF TOWN OFFICERS AND OTHER DOINGS OF THE TOWN OF MELROSE.

*Chap. 178*

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

SECTION 1. The election of town officers, and the several votes passed at the annual meeting of the inhabitants of the town of Melrose, holden on Monday, the twenty-seventh day of March, in the year one thousand eight hundred and sixty-five, are hereby ratified, confirmed and made valid, to the same extent as if said meeting had been legally called.

Election and votes in March '65 legalized.

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

*Approved April 29, 1865.*

AN ACT ALLOWING CERTAIN AMENDMENTS IN THE FORMS OF CIVIL ACTIONS.

*Chap. 179*

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

SECTION 1. The superior court and the supreme judicial court may, in their discretion, and upon such terms as they may deem just, allow amendments changing a suit at law into a proceeding in equity, or a proceeding in equity into a suit at law, if the same be necessary to enable the plaintiff to sustain the action for the cause for which it was intended to be brought.

Courts may change suits at law to equity, and reverse.

SECTION 2. If any proceeding in equity shall be so changed by amendment into a suit at law, the supreme judicial court shall nevertheless retain jurisdiction thereof, whether or not it be a case of which they would have had original jurisdiction. If any suit at law shall be changed into a proceeding in equity, the same shall forthwith be removed by the plaintiff to the supreme judicial court.

S. J. Court to have jurisdiction.

SECTION 3. The supreme judicial court may, in case of such change, make any necessary orders as to further service, the joinder of new parties, or the pleadings.

May make necessary orders.

*Approved April 29, 1865.*