

term by said town at any legal town meeting called for the purpose.

Security for payment of damages and costs may be required to be given.

SECTION 15. The county commissioners for the county of Essex shall, upon application of the owner of any land, water or water rights taken under this act, require said corporation to give satisfactory security for the payment of all damages and costs which may be awarded such owner for the land or other property so taken; but previous to requiring such security the said county commissioners shall, if application therefor is made by either party, make an estimate of the damages which may result from such taking, and the said county commissioners shall in like manner require further security, if at any time the security before required appears to them to have become insufficient; and all the right or authority of said corporation to enter upon or use such land or other property, except for the purpose of making surveys, shall be suspended until it gives the security required.

Rights of Bradford Academy not to be disturbed.

SECTION 16. Said company shall not in any way interfere with or disturb the rights or privileges which Bradford Academy, a corporation duly established under the laws of this Commonwealth and located in said town of Bradford, now enjoys for taking water from said Merrimac river for the use and general purposes of said academy.

Work to be commenced within three years.

SECTION 17. This act shall take effect upon its passage, but shall become void unless work under this act is commenced within three years from the date of its passage.

Approved June 22, 1886.

Chap. 311 AN ACT TO INCORPORATE THE BERKSHIRE HEIGHTS WATER COMPANY OF GREAT BARRINGTON.

Be it enacted, etc., as follows:

Berkshire Heights Water Company incorporated.

SECTION 1. Edwin D. Brainard, Caleb Ticknor, William E. Cooper, Herbert C. Joyner, their associates and successors, are hereby made a corporation by the name of the Berkshire Heights Water Company, for the purpose of furnishing the inhabitants of that part of the village of Great Barrington now known as the Berkshire Heights, and other inhabitants of said village, subject to the limitations hereinafter named, 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 which now are or may hereafter be in force applicable to such corporations.

SECTION 2. Said corporation, for the purposes aforesaid, may take, subject to the limitations hereinafter named, the waters of Green river, so called, in the town of Great Barrington, and of the tributaries thereof, with any water rights connected therewith, and may also take and hold, by purchase or otherwise, any real estate, rights of way or easements necessary for laying, constructing and maintaining aqueducts, reservoirs, storage basins, dams and such other works as may be deemed necessary or proper for collecting, purifying, storing, discharging, conducting and distributing said waters to said inhabitants: *provided, however*, that said corporation shall not at any time, under the provisions of this act, take, divert or convert to its own use, more than ten per cent. of the waters of said river.

May take waters of Green river.

SECTION 3. The said corporation shall, within sixty days after the taking of the waters of said Green river, or any water rights, or water sources, or any real estate, rights of way or easements as aforesaid, otherwise than by purchase, file and cause to be recorded in the office of the registry of deeds for the southern district of the county of Berkshire, a description thereof sufficiently accurate for identification, with a statement of the purposes for which the same was taken, signed by the president of the corporation.

To record in the registry of deeds a description of land, etc., taken.

SECTION 4. Said corporation may erect on the land thus taken or held, 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 down conduits, pipes and other works, under or over any lands, water courses, railroads, 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 proper purposes of this act, said corporation may dig up any such lands, and, under the direction of the board of selectmen of the town in which any such ways are situated, may enter upon and dig up any such ways,

May erect dams and fixtures.

May dig up lands under direction of the selectmen.

in such manner as to cause the least hindrance to public travel on such ways.

May distribute water, etc.

SECTION 5. Said corporation may distribute said water to any residents or cottages that may hereafter occupy lands which have been at any time owned by the Berkshire Heights Land Company, and to any other inhabitants of the village of Great Barrington and vicinity, whose dwellings or other premises are so situated that they cannot be supplied with water, for the purposes specified in this act, by the Great Barrington Water Company, as now operated.

Liability for damages.

SECTION 6. Said corporation shall be liable to pay all damages that shall be sustained by any person in his property by the taking of any land, water or water rights, or by constructing any aqueducts or other works for the purposes specified in this act; and if any person who shall sustain damages as aforesaid cannot agree with said corporation upon the amount of said damages, the same shall be ascertained, determined and recovered in the manner now provided by law in case of land taken for highways.

Real estate, capital stock and shares.

SECTION 7. The said corporation may, for the purposes set forth in this act, hold real estate not exceeding in amount ten thousand dollars; and the whole capital stock of said corporation shall not exceed twenty thousand dollars, to be divided into shares of one hundred dollars each.

May issue bonds and secure the same by mortgage.

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 and applied to the purposes of its incorporation.

Penalty for corrupting or diverting water.

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 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 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.

SECTION 10. The said town of Great Barrington, and any fire district that is, or may hereafter be, established therein, shall have the right at any time during the continuance of the charter hereby granted to purchase the franchise, corporate property and all the rights and privileges of said corporation, at a price which may be mutually agreed upon between said town or such fire district and said corporation; and the said corporation is authorized to make sale of the same to said town or to such fire district. In case said corporation and said town or such fire district are unable to agree, then the compensation to be paid shall be determined by three commissioners, to be appointed by the supreme judicial court upon application of either party and notice to the other, whose award, when accepted by said 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 such fire district by a two-thirds vote of the voters of said town or such fire district present and voting thereon at a meeting called for that purpose.

Town or fire district may purchase franchise and property.

Subject to assent by a two-thirds vote.

SECTION 11. The said town or fire district may, for the purpose of paying the cost of said franchise and corporate property, and the necessary expenses and liabilities incurred under the provisions of this act, issue, from time to time, bonds, notes or scrip, to an amount not exceeding, in the aggregate, twenty thousand dollars; such bonds, notes and scrip, shall bear on their face the words Great Barrington Water Loan; shall be payable at the expiration of periods not exceeding thirty years from the date of issue; shall bear interest payable semi-annually, at a rate not exceeding six per centum per annum, and shall be signed by the treasurer of the town or of the fire district and countersigned by the chairman of the water commissioners hereinafter provided for. The said town or fire district 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. The said town or fire district shall provide, at the time of contracting said loan, for the establishment of a sinking fund, and shall annually contribute to such fund a sum sufficient, with the accumulations thereof, to pay the principal of said loan at maturity. The said sink-

Great Barrington Water Loan, not to exceed \$20,000.

Sinking fund to be provided.

ing fund shall remain inviolate and pledged to the payment of said loan, and shall be used for no other purpose.

May make annual proportionate payments instead of establishing fund.

SECTION 12. The said town or fire district, instead of establishing a sinking fund, may, at the time of authorizing said loan, provide for the payment thereof in such annual proportionate payments as will extinguish the same within the time prescribed in this act; and when such vote has been passed the amount required thereby shall, without further vote, be assessed by the assessors of said town in each year thereafter, until the debt incurred by said loan shall be extinguished, in the same manner as other taxes are assessed under the provisions of section thirty-four of chapter eleven of the Public Statutes.

Return to state the amount of sinking fund, etc.

SECTION 13. The return required by section ninety-one of chapter eleven of the Public Statutes shall state the amount of any sinking fund established under this act, and if none is established, whether action has been taken in accordance with the provisions of the preceding section, and the amounts raised and applied thereunder for the current year.

To raise by taxation sufficient for current expenses and interest.

SECTION 14. The said town or fire district shall raise annually, by taxation, a sum which, with the income derived from the water rates, will be sufficient to pay the current annual expenses of operating its water works, and the interest as it accrues on the bonds, notes and scrip issued as aforesaid by said town or fire district, and to make such contributions to the sinking fund and payments on the principal as may be required under the provisions of this act.

Board of water commissioners to be elected.

SECTION 15. The said town or fire district shall, after the purchase of said franchise and corporate property, as provided in this act, at a legal meeting called for the purpose, elect by ballot three persons to hold office, one until the expiration of three years, one until the expiration of two years, and one until the expiration of one year from the next succeeding annual town or district meeting, to constitute a board of water commissioners; and at each annual town or district meeting thereafter, one such commissioner shall be elected by ballot for the term of three years. All the authority granted to the said town or district by this act, and not otherwise specifically provided for, shall be vested in said board of water commissioners, who shall be subject, however, to such instructions, rules and regulations as said town or district may impose by

vote; the said commissioners shall be trustees of the sinking fund herein provided for, and a majority of said commissioners shall constitute a quorum for the transaction of business relative both to the water works and to the sinking fund. Any vacancy occurring in said board from any cause may be filled for the remainder of the unexpired term by said town or district at any legal town or fire district meeting called for the purpose.

To be trustees
of the sinking
fund.

SECTION 16. This act shall take effect upon its passage, but shall become void unless work under it shall be commenced within three years from the date of its passage.

Work to be
commenced
within three
years.

Approved June 22, 1886.

AN ACT TO AUTHORIZE THE TOWN OF PLYMOUTH TO OBTAIN AN ADDITIONAL SUPPLY OF WATER, AND TO ISSUE NOTES, BONDS OR SCRIP FOR THAT PURPOSE.

Chap. 312

Be it enacted, etc.. as follows:

SECTION 1. The town of Plymouth, for the purpose of supplying itself and its inhabitants with an additional supply of water for the extinguishment of fire and for domestic and other purposes, may take by purchase or otherwise, and hold any lands, rights of way or easements, necessary for holding and preserving such water and for conveying the same to any part of said town of Plymouth; and may erect on the land thus taken or held, proper dams, reservoirs, 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 down conduits, pipes and other works, under or over any lands, public works, water courses, railroads, or public or private ways, and along any such way, 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 proper purposes of this act, said town may dig up any such lands, and, under the direction of the board of selectmen of the town in which any such ways are situated, may enter upon and dig up any such ways in such manner as to cause the least hindrance to public travel on such ways.

Additional
water supply for
Plymouth.

SECTION 2. The said town shall, within sixty days after the taking of any lands, rights of way or easements as aforesaid, otherwise than by purchase, file or cause to

To record in the
registry of deeds
a description of
the land, etc.,
taken.