

Chap. 240 AN ACT TO INCORPORATE THE CONWAY WATER COMPANY.

Be it enacted, etc., as follows:

Conway Water
Company
incorporated.

SECTION 1. John B. Laidley, Arthur P. Delabarre and Fred. A. Delabarre, their associates and successors, are hereby made a corporation by the name of the Conway Water Company, for the purpose of furnishing the inhabitants of Conway with pure water for the extinguishment of fires and for domestic 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, etc.

SECTION 2. Said corporation, for the purposes aforesaid, may lease, take or acquire, by purchase or otherwise, and hold and convey through the town of Conway the water of Roaring brook and of any tributary thereof, in Conway, except that part of said brook and its tributaries which lies east of and below the main road leading from Conway village to West Whately; and the waters of any springs or other sources on the watershed of said brook, with the water rights connected therewith, except that part which lies east of and below the main road leading from Conway village to West Whately: *provided*, that no source of water supply for domestic purposes shall be taken under this act without the advice and approval of the state board of health, and that the location of all dams and reservoirs shall be subject to the approval of said board. Said company may also take by purchase or otherwise and hold all lands, rights of way and easements in the town of Conway necessary for taking, holding, storing and improving such water and for conveying the same to and through the town of Conway, and said company may construct on the lands thus acquired proper dams, buildings, fixtures and other structures, and may do such other things as may be necessary for providing and maintaining complete and effective water works; and for that purpose may construct, lay and maintain aqueducts, conduits, pipes and other works, under or over any land, water courses, railroads, railways and public or other ways, and along any highway or other way in the town of Conway, in such manner as not unnecessarily to obstruct the same; and for the purpose of constructing, laying, maintaining and repairing such

Proviso.

May take
certain lands,
erect struc-
tures, lay
pipes, etc.

aqueducts, conduits, pipes and other works, and for all other purposes of this act, said company may dig up, raise and embank any such lands, highways or other ways in such manner as to cause the least hindrance to public travel; but all things done upon any such ways shall be subject to the direction of the selectmen of said town.

SECTION 3. Said corporation shall within sixty days after the taking of any lands, rights of way, water rights, water sources or easements as aforesaid, other than by purchase, file and cause to be recorded in the registry of deeds for the county of Franklin a description thereof sufficiently accurate for identification, with a statement of the purpose for which the same were taken, signed by the president of the corporation. The recording shall operate as a taking of the real estate and rights and easements therein described.

Description
of lands, etc.,
to be recorded.

SECTION 4. The said corporation shall pay all damages to property sustained by any person by the taking of any land, right of way, water source; water right or easement, or by any other thing done by said corporation under authority hereof. Any person sustaining damages as aforesaid who fails to agree with said corporation as to the amount thereof may have the same assessed and determined in the manner provided by law when land is 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 said corporation under authority of this act.

Damages.

SECTION 5. Said corporation may distribute the water through said town of Conway, may establish and fix from time to time the rates for the use of said water and 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 fire or for other purposes, as may be agreed upon with said town or with such fire district, individual or corporation.

Distribution
of water, etc.

Real estate and
capital stock.

SECTION 6. Said corporation may, for the purposes aforesaid, hold real estate to an amount not exceeding ten thousand dollars in value. The capital stock of said corporation shall not exceed thirty thousand dollars, to be divided into shares of one hundred dollars each. If necessary for the purposes of the corporation an increase of capital stock may be authorized by the commissioner of corporations in the manner provided in section thirty of chapter one hundred and nine of the Revised Laws. The corporation may issue bonds and secure the same by mortgage of its franchise and other property, but the total amount of such bonds shall not exceed the capital stock of the corporation actually paid in. Said bonds shall be denominated on the face thereof, The Conway Water Company 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 five per cent per annum, and shall be issued only to such amount as may from time to time upon investigation by the commissioner of corporations be deemed by him reasonably necessary for the purposes for which said corporation is established. A certificate setting forth the decision of the commissioner shall be filed in the office of the secretary of the Commonwealth before the bonds are issued, and the proceeds shall be applied only to such purposes as are specified in the decision of the commissioner.

The Conway
Water Com-
pany Loan.

Certificate
to be filed
before bonds
are issued, etc.

R. L. 109, §§ 22
and 23, to
apply.

SECTION 7. Sections twenty-two and twenty-three of chapter one hundred and nine of the Revised Laws shall apply to the payment of the thirty thousand dollars of the capital stock of the corporation.

Penalty for
corruption of
water, etc.

SECTION 8. 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 upon conviction 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.

Town of Con-
way may take
franchise,
property, etc.

SECTION 9. The town of Conway shall have the right at any time to take, by purchase or by exercise of the right of eminent domain, the franchise, property and all

the rights and privileges of said corporation on payment of the actual cost thereof; and unless the dividends earned and declared by said company on its stock shall be equal to or in excess of five per cent per annum there shall be added to the first cost such sum as shall make the net return to the stockholders five per cent per annum on the investment. If the town shall so take said property it may as part payment of the amount to be paid for said taking assume any indebtedness of said corporation incurred in the construction or improvement of the property, by lawful issue of bonds secured by mortgage. Said corporation shall furnish to the town of Conway, under oath, an itemized statement of the cost of the water supply system authorized under this act, together with a copy of all contracts made in providing and constructing said water supply system and any extension thereof, and shall furnish to said town annually an itemized statement, under oath, of its receipts and expenditures and of the dividends paid on its stock, which shall be submitted by the selectmen to the citizens of the town at each annual town meeting. The authority to purchase or take the franchise and property of said corporation shall be exercised by said town only after the town has voted to purchase or take the same by a two thirds vote of the voters of the town present and voting thereon at a meeting legally called for that purpose. And the taking, if by exercise of the right of eminent domain, shall be by filing in the registry of deeds for the county of Franklin a declaration of such taking, which shall include a certified copy of the article in the warrant under which the town acted and of the vote of the town thereon showing that it was passed by a two thirds vote as herein required.

Statement of receipts and expenditures, etc., to be furnished annually.

SECTION 10. The selectmen of said town upon 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 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 before required appears to them to have become insufficient; and all the right or authority of said corporation to enter upon

Corporation may be required to give satisfactory security for payment of damages, etc.

or use such land or other property, except for making surveys or tests of the soil, shall be suspended until it gives security as required.

When to take effect, etc.

SECTION 11. This act shall take effect upon its passage, but shall become null and void unless work is begun under it within three years after the date of its passage.

Approved April 16, 1903.

Chap. 241 AN ACT RELATIVE TO THE SETTLEMENT OF ESTATES OF ABSENTEES.

Be it enacted, etc., as follows:

R. L. 144, § 1,
etc., amended.

SECTION 1. Section one of chapter one hundred and forty-four of the Revised Laws, as amended by section fourteen of chapter five hundred and forty-four of the acts of the year nineteen hundred and two, is hereby further amended by striking out the whole of said section and inserting in place thereof the following:— *Section 1.* If a person entitled to or having an interest in property within the jurisdiction of the Commonwealth has disappeared or absconded therefrom, or has disappeared or absconded from the place without the Commonwealth where he was last known to be, and has no agent in the Commonwealth, and it is not known where he is, or if such person, having a wife or minor child dependent to any extent upon him for support, has thus disappeared or absconded without making sufficient provision for such support, and it is not known where he is, or if it is known that he is without the Commonwealth, any one who would under the law of this Commonwealth be entitled to administer upon the estate of such absentee if he were deceased, or if no one is known to be so entitled, any suitable person, or such wife, or some one in her or such minor's behalf, may file a petition under oath in the probate court for the county in which any such property is situated or found, stating the name, age, occupation and last known residence or address of such absentee, the date and circumstances of the disappearance or absconding, and the names and residence of other persons, whether members of such absentee's family or otherwise, of whom inquiry may be made, and containing a schedule of the property, real and personal, so far as it is known, and its location within the Commonwealth, and praying that such property may be taken possession of and a receiver thereof appointed under the provisions of this chapter.

Petition for
appointment
of receiver.