

By Mr. Tilden of Scituate, petition of Robert H. Tilden and others (selectmen) that the town of Scituate be authorized to construct and operate a system of sewers. Towns.

The Commonwealth of Massachusetts

In the Year One Thousand Nine Hundred and Fifty-Seven.

AN ACT AUTHORIZING THE TOWN OF SCITUATE TO CONSTRUCT
AND OPERATE A SYSTEM OF SEWERS.

Be it enacted by the Senate and House of Representatives in General Court assembled, and by the authority of the same, as follows:

1 SECTION 1. The town of Scituate may lay out, construct,
2 maintain and operate a system or systems of main drains and
3 common sewers with such connections, pumping stations,
4 treatment plants, and other works as may be required for a
5 system of sewage disposal, and may construct such sewers or
6 drains over and under land or tide water in the town as may
7 be necessary to conduct the sewage of the town to the treat-
8 ment works, and, for the purpose of providing better surface
9 or other drainage, may make, lay and maintain such drains
10 as it deems best. And for the purposes aforesaid, the town
11 may make and maintain sub-drains, and, with the approval of
12 the department of public health, discharge the water from such
13 sub-drains into any brook, stream or water course within the
14 town.

1 SECTION 2. Said town upon acquiring the necessary ease-
2 ments or other rights, under section six or otherwise, may
3 make and maintain main drains or common sewers and sub-
4 drains in any private way in said town for the purpose of
5 serving abutting estates or for other purposes of the sewer
6 system; provided, that as to any private way in which such

7 construction and maintenance would, except for this act, be
8 barred to the provisions of section seventy-seven of chapter
9 forty-one of the General Laws or other general law, the town
10 shall have voted prior to the beginning of construction therein
11 that the sewer system shall be extended to such private way.

1 SECTION 3. Said town may make and maintain in anyway
2 where main drains or common sewers are constructed, such
3 connecting drains, under-drains and sewers within the limits
4 of such way as may be necessary to connect any estate which
5 abuts upon the way.

1 SECTION 4. Said town may, at the meeting at which this
2 act is accepted, vote that the selectmen shall act as a board of
3 sewer commissioners. If the town does not so vote, the town
4 shall elect by ballot at any town meeting not later than the
5 second annual meeting after the commencement of the work of
6 construction authorized hereby a board of three sewer com-
7 missioners, who shall be registered voters of the town, to hold
8 office, if elected at an annual town meeting, one until the
9 expiration of one year, one until the expiration of two years,
10 and one until the expiration of three years, from such annual
11 town meeting, and until their successors are qualified, or if
12 elected at a special town meeting, one until the expiration of
13 one year, one until the expiration of two years, and one until
14 the expiration of three years, from the next succeeding annual
15 town meeting, and until their successors are qualified; and
16 thereafter, at each annual town meeting, the town shall elect
17 one member of the board to serve for three years and until
18 his successor is qualified. In either case, whether the town
19 votes that its selectmen shall act as a board of sewer com-
20 missioners or elects a board of sewer commissioners, the town
21 may, at any time thereafter, by any and all the methods
22 permitted by general law, provide for the election of a board
23 of three sewer commissioners, or that the selectmen may act
24 as a board of sewer commissioners, as the case may be.

1 SECTION 5. Until the board of sewer commissioners has
2 first been elected, as provided in this act, or the selectmen

3 have first been authorized by vote to act as such board, as the
4 case may be, but not, in any event later than the second
5 annual town meeting after the commencement of the work of
6 construction authorized hereby, the town may carry on such
7 work by a committee of the town authorized so to act at any
8 town meeting. The committee shall serve without pay and
9 shall have all the powers and authority given to the board of
10 sewer commissioners in this act or by general law. Whenever
11 the phrase "board of sewer commissioners" hereinafter
12 occurs it shall mean and include the board of sewer commis-
13 sioners, the selectmen acting as such or the committee of the
14 town provided for in this section, as the case may be.

1 SECTION 6. The board of sewer commissioners, acting for
2 and on behalf of said town, may take by eminent domain
3 under chapter seventy-nine of the General Laws, or acquire
4 by purchase or otherwise, any lands, water rights, rights of
5 way or easements, public or private, in the town, necessary
6 for accomplishing any purpose mentioned in this act, and may
7 construct such main drains and sewers, sub-drains and under-
8 drains under or over any bridge, railroad, railway, boulevard
9 or other public way, or within the location of any railroad,
10 and may enter upon and dig up any private land, public land,
11 including park land, or railroad location, for the purpose of
12 laying such drains and sewers or installing such pumping
13 stations, treatment plants, or other works and of maintaining
14 and repairing the same, and may do any other thing proper
15 or necessary for the purposes of this act; provided, that they
16 shall not take in fee any land of a railroad corporation, and
17 that they shall not enter upon or construct any drain or sewer,
18 or install any pumping station, treatment plant, or other
19 works, within the location of any railroad corporation except
20 at such times and in such manner as they may agree upon with
21 such corporation, or, in case of failure to agree, as may be
22 approved by the department of public utilities. No taking
23 shall be necessary for the use of any park land, bathing beach
24 or playground for any of the purposes of this act to any extent
25 approved by the board in charge of or holding title to such
26 land, including the trustees under chapter seventy-five of the

27 acts of nineteen hundred and thirty-four, or by the town at
28 any town meeting.

1 SECTION 7. Any person injured in his property by any
2 action of the board of sewer commissioners under this act may
3 recover damages from the town under said chapter seventy-
4 nine.

1 SECTION 8. Said town shall, by vote, determine what pro-
2 portion of the cost of the system or systems of sewerage and
3 sewage disposal the town shall pay; provided, that it shall
4 pay not less than one fourth nor more than two thirds of the
5 whole cost. In providing for the payment of the remaining
6 portion of the cost of the system or systems or for the use
7 of the system or systems, the town may avail itself of any
8 or all of the methods permitted by general laws, and the pro-
9 visions of the general laws relative to the assessment, appor-
10 tionment, division, re-assessment, abatement and collection
11 of sewer assessments, to liens therefor and to interest thereon,
12 shall apply to assessments made under this act. At the same
13 meeting at which it determines the proportion of the cost
14 which is to be borne by the town, it may by vote determine by
15 which of such methods the remaining portion of the cost shall
16 be provided for. The collector of taxes of said town shall
17 certify the payments or payments of such assessments or
18 apportionments thereof to the board of sewer commissioners
19 who shall preserve a record thereof.

1 SECTION 9. For the purpose of paying the necessary ex-
2 penses and liabilities incurred under this act, the town of
3 Scituate may borrow such sums as may be necessary, not
4 exceeding, in the aggregate, one million one hundred twenty-
5 five thousand dollars, and may issue bonds or notes therefor,
6 which shall bear on their face the words, Scituate Sewerage
7 Loan, Act of 1957. Each authorized issue shall constitute a
8 separate loan. Indebtedness incurred under this act shall be
9 in excess of the statutory limit, but shall, except as provided
10 herein, be subject to chapter forty-four of the General Laws,
11 inclusive of the limitation contained in the first paragraph
12 of section seven thereof.

1 SECTION 10. The receipts from sewer assessments and
2 from payments made in lieu thereof shall be appropriated for
3 and applied to the payment of charges and expenses incident
4 to the maintenance and operation of the system of sewerage
5 and sewage disposal or to the extension thereof, to the pay-
6 ment of interest upon bonds or notes issued for sewer purposes
7 or to the payment or redemption of such bonds or notes.

1 SECTION 11. The board of sewer commissioners may an-
2 nually appoint a clerk and may appoint a superintendent of
3 sewers who shall not be a member of the board. It may
4 remove the clerk or superintendent at its pleasure and shall
5 define their duties. The board may, at its discretion, pre-
6 scribe for the users of the sewer system or systems such annual
7 rentals or charges based upon the benefits derived therefrom
8 as it may deem proper, subject, however, to such rules and
9 regulations as shall be adopted by vote of the town.

1 SECTION 12. All contracts made by the board of sewer com-
2 missioners shall be made in the name of the town and shall be
3 signed by the board, but no contracts shall be made or obliga-
4 tion incurred by the board for any purpose in excess of the
5 amount of money appropriated by the town therefor.

1 SECTION 13. The board of sewer commissioners may, from
2 time to time, prescribe rules and regulations for the connec-
3 tion of estates and buildings with main drains and sewers,
4 and for the inspection of the materials, the construction,
5 alteration and use of all connections and drains entering into
6 such main drains or sewers, and may prescribe penalties, not
7 exceeding twenty dollars, for each violation of any such rule
8 or regulation. Such rules and regulations shall be published
9 at least once a week for three successive weeks in some news-
10 paper published in the town of Scituate, if there be any, and
11 if not, then in some newspaper published in the county of
12 Plymouth, and shall not take effect until such publications
13 have been made.

1 SECTION 14. The town of Scituate, through the board of
2 sewer commissioners, may, upon the application of the owner

3 of any estate abutting on any public or private way where a
4 main drain or common sewer is constructed, lay in such sewered
5 way and in the private land of such owner such particular
6 sewer or connecting drain as may be necessary to connect any
7 building on such estate with such main drain or sewer, and
8 said board may make all necessary contracts in the name and
9 behalf of the town for such purpose. The expenses thereof
10 shall be paid out of any appropriation that may be made by
11 the town therefor. The cost of constructing each particular
12 sewer or connecting drain shall be assessed by the board of
13 sewer commissioners upon the estate benefited thereby.
14 Such assessment shall be made by filing with the board of
15 assessors of the town a certificate, designating the way and
16 the private land in which such particular sewer or connecting
17 drain has been constructed, and giving the name or names of
18 the owners of the estate for which such connection has been
19 made and the amount of the assessment to be paid by such
20 owner or owners. A copy or duplicate of this certificate shall,
21 within ten days after the filing of the same with the board of
22 assessors, be recorded in the registry of deeds for the county
23 of Plymouth, or, in the case of registered land, filed in the
24 office of the assistant recorder for Plymouth county registry
25 district. The board of assessors shall, upon receipt of such
26 certificate, forthwith commit such assessments or charges
27 with their warrant to the collector of taxes, who shall forth-
28 with make a demand in writing for the payment of such
29 assessments or charges, and every owner shall, within three
30 months after such demand is served upon him or on the
31 occupant of such estate, or sent by mail to the last address of
32 the owner known to the collector of taxes, pay to the collector
33 of taxes the sum so assessed or charged. Except as herein
34 provided, the provisions of general law relative to the assess-
35 ment, apportionment, division, reassessment, abatement and
36 collection of sewer assessments, to liens therefor and to inter-
37 est thereon shall apply to assessments made under this sec-
38 tion. In applying said provisions to assessments made under
39 this section, the notice referred to therein shall be deemed to
40 be the demand of the tax collector required hereby. The lien
41 for any assessment made under this section shall attach upon

42 the recording or filing for registration of the copy or duplicate
43 of the certificate of assessment. In the apportionment of
44 assessments made under this section no instalment shall be
45 less than five dollars.

1 SECTION 15. The provisions of this section shall be opera-
2 tive only if the town of Scituate at the meeting at which this
3 act is accepted shall vote, separately, to accept said provi-
4 sions. Each owner of a building upon land abutting a public
5 or private way in the town of Scituate in which there is a
6 common sewer shall within a reasonable time, to be fixed by
7 the board of sewer commissioners, after construction of such
8 sewer in such way connect such building therewith, unless
9 on application of the owner the board of health shall find that
10 the non-connection of such building with the common sewer
11 does not in reasonable likelihood endanger the public health.

1 SECTION 16. No act shall be done under authority of the
2 preceding sections, except in the making of surveys and other
3 preliminary investigations, until the plans of the system of
4 sewerage and sewage disposal have been approved by the
5 department of public health. Upon application to the depart-
6 ment for its approval, it shall give a hearing, after due notice
7 to the public. At such hearing, plans showing in detail all the
8 work to be done in constructing the system of sewerage and
9 sewage disposal shall be submitted for approval by the de-
10 partment.

1 SECTION 17. Subject to the provisions of section fifteen,
2 this act shall take full effect upon its acceptance by vote of
3 a majority of the voters of the town voting thereon at any
4 annual or special town meeting called for the purpose at which
5 the town shall vote to accept chapter five hundred and ninety-
6 one of the acts of nineteen hundred and forty-five, or which
7 is held within five years after such vote. No expenditure
8 shall be made and no liability incurred hereunder until such
9 acceptance of this act.

