The committee on Water Supply, to which was referred the petition (with accompanying bill, House, No. 1464) of Nathaniel M. Quint and others, selectmen, that the town of Essex be authorized to supply itself and its inhabitants with water by purchase from the city of Gloucester or by acquiring sources of water supply within the limits of said town, reports the accompanying bill (Senate, No. 319).

For the committee,

RUSSELL D. CHASE.
An Act authorizing the Town of Essex to Supply Itself and Its Inhabitants with Water.

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 Essex may supply itself and its inhabitants with water for the extinguishment of fires and for domestic and other purposes; may establish fountains and hydrants, relocate or discontinue the same, and may regulate the use of such water and fix and collect rates to be paid for the use of the same.

1 Section 2. For the purposes aforesaid, the said town of Essex, acting by and through its board of water commissioners hereinafter provided for, may contract with any other municipality, acting through its water department, or with any water company, or with any water district, for whatever water may be required, authority to furnish the same being hereby granted, and/or take by eminent domain under chapter seventy-nine of the General Laws, or acquire by lease, purchase or otherwise, and hold, the waters, or any portion thereof, of any pond, brook, spring or stream or of any ground water sources by means of driven artesian or other wells or filter galleries, within the
limits of said town not already appropriated for purposes of public water supply and the water rights connected with any such water sources and also may take by eminent domain under said chapter seventy-nine, or acquire by purchase or otherwise, and hold, all lands, rights of way and easements necessary for collecting, storing, holding, purifying and treating such water and protecting and preserving the purity thereof and for conveying the same to any part of said town of Essex; provided, that no source of water supply and no lands necessary for protecting and preserving the purity of the water shall be taken without first obtaining the advice and approval of the department of public health, and that the location and arrangement of all dams, reservoirs, wells or filter galleries, filtration and pumping plants or other works as may be necessary in carrying out the provisions of this act shall be subject to the approval of this department.

Said town may construct and maintain on the lands acquired and held under the provisions of this act proper dams, wells, reservoirs, pumping and filtration plants, buildings, standpipes, tanks, fixtures and other structures, including also the establishment and maintenance of purification and treatment works or systems which shall be subject to the approval of the department of public health, and may make excavations, procure and operate machinery and provide such other means and appliances and do such other things as may be necessary for the establishment and maintenance of complete and effective water works; and for that purpose may construct, lay and maintain aqueducts, conduits, pipes and other works, under or over any lands, water courses, railroads, rail-ways and public or other ways, and along any such
way in said town in such manner as not unnecessarily
to obstruct the same; and for the purpose of con-
structing, laying, maintaining, operating and repair-
ing such conduits, pipes and other works, and for all
other proper purposes of this act, said town may dig
up or raise and embank any such lands, highways or
other ways in such manner as to cause the least
hindrance to public travel thereon, provided that all
things done upon any such way shall be subject to
the direction of the selectmen of the town of Essex.
Said town shall not enter upon, construct or lay any
conduits, pipes or other works within the location of
any railroad corporation except at such time and in
such manner as it may agree upon with such corpo-
ration or, in case of failure so to agree, as may be ap-
proved by the department of public utilities. The
said town may enter upon any lands for the purpose
of making surveys, test pits and borings, and may
take or otherwise acquire the right to occupy tempo-
rarily any lands necessary for the construction of any
works or for any other purpose authorized by this act.

Section 3. The land, water rights and other
property taken or acquired under this act, and all
works, buildings and other structures erected or con-
structed thereunder, shall be managed, improved and
controlled by the board of water commissioners here-
in after provided for, in such manner as they shall deem
for the best interest of the town.

Section 4. Any person or corporation injured in
his or its property by any action of said town or board
under this act may recover damages from said town
under said chapter seventy-nine; provided, that the
right to damages for the taking of any water, water source or water right, or any injury thereto, shall not vest until the water is actually withdrawn or diverted by said town under authority of this act.

Section 5. Said town may, for the purpose of paying the necessary expenses and liabilities incurred or to be incurred under the provisions of this act, other than expenses of maintenance and operation, issue from time to time bonds or notes to an amount, not exceeding, in the aggregate, one hundred and fifty thousand dollars, which shall bear on their face the words, Town of Essex Water Loan, Act of nineteen hundred and thirty-four. Each authorized issue shall constitute a separate loan, and such loans shall be payable in not more than thirty years from their dates. Indebtedness incurred under this act shall be subject to chapter forty-four of the General Laws.

Section 6. Said town shall, at the time of authorizing said loan or loans, provide for the payment thereof in accordance with the provisions of section five of this act; and when a vote to that effect has been passed, a sum which, with the income derived from the water rates, will be sufficient to pay the annual expense of operating the water works or the purchasing of water and the maintenance of its pipe lines, as the case may be, and the interest as it accrues on the bonds or notes issued as aforesaid, and to make such payments on the principal as may be required under the provisions of this act, shall without further vote be assessed by the assessors of the town annually thereafter in the same manner as other taxes, until the debt incurred by the said loan or loans is extinguished.
1 Section 7. 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 town under the authority and for the purposes of this act, shall forfeit and pay to said town three times the amount of damages assessed therefor, to be recovered in an action of tort; and upon conviction of any one of the above wilful or wanton acts shall be punished by a fine of not more than three hundred dollars or by imprisonment for not more than one year.

1 Section 8. The said town shall, after its acceptance of this act, at the same meeting at which the act is accepted or at a meeting thereafter 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 meeting, to constitute a board of water commissioners; and at the annual town meeting held on the day on which the shortest of such terms expires, and at each annual town meeting thereafter, one such commissioner shall be elected by ballot for the term of three years. All the authority granted to the town by this act, except sections five and six, and except as otherwise specifically provided, shall be vested in said board of water commissioners, who shall be subject, however, to such instructions, rules and regulations as said town may impose by its vote. A majority of said commissioners shall constitute a quorum for the transaction of business. Any vacancy occurring in said board from any cause may be filled
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22 for the remainder of the unexpired term by said town
23 at any annual town meeting called for the purpose.
24 Any such vacancy may be filled temporarily in the
25 manner provided by section eleven of chapter forty-
26 one of the General Laws, and the person so appointed
27 shall perform the duties of the office until the next
28 annual meeting of said town or until another person
29 is qualified.

1 Section 9. Said commissioners shall fix just and
2 equitable prices and rates for the use of water, and
3 shall prescribe the time and manner of payment.
4 The income of the water works shall be appropriated
5 to defray all operating expenses, interest charges and
6 payments on the principal as they accrue upon any
7 bonds or notes issued under authority of this act.
8 If there should be a net surplus remaining after pro-
9 viding for the aforesaid charges it may be appropri-
10 ated for such new construction as the water commis-
11 sioners, with the approval of the town, may determine
12 upon, and in case a surplus should remain after pay-
13 ment for such new construction the water rates shall
14 be reduced proportionately. All authority vested in
15 said commissioners by the foregoing provisions of this
16 section and by section three shall be subject to the
17 provisions of section eight. Said commissioners shall
18 annually, and as often as the town may require,
19 render a report upon the condition of the works under
20 their charge and an account of their doings, including
21 an account of receipts and expenditures.

1 Section 10. This act shall take effect upon its
2 acceptance by a majority of the voters of the town of
Essex present and voting thereon at a town meeting called for the purpose within three years after its passage; but the number of meetings so called in any year shall not exceed three; and, for the purpose only of being submitted to the voters of said town as aforesaid, this act shall take effect upon its passage.