

HOUSE No. 1909

Bill accompanying the petition of Charles S. Chace for the incorporation of the Anawan Water Company with authority to supply water within the towns of Dighton, Somerset and Swansea. Water Supply. March 22.

The Commonwealth of Massachusetts.

In the Year One Thousand Nine Hundred and Sixteen.

AN ACT

To incorporate the Anawan Water Company.

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. Charles S. Chace, Franklin S. Simmons,
2 Francis L. Gardner, Cornelius S. Hawkins, Philip Allen,
3 W. Gordon Reed, Edmund W. Kent, and Edward W.
4 Shedd, their associates and successors, are hereby made a
5 corporation by the name of Anawan Water Company, for
6 the purpose of supplying water for use within the towns
7 of Dighton, Somerset and Swansea, or any part thereof,
8 for the extinguishment of fires and for domestic, manu-
9 facturing and all other purposes. Said corporation shall
10 have all the powers and privileges and shall be subject to
11 all the duties, restrictions and liabilities set forth in all

12 general laws which now are or may hereafter be in force
13 applicable to water companies.

1 SECTION 2. Said corporation may take or acquire, by
2 purchase or otherwise, and hold, the waters of any such
3 brook, stream, river, pond, reservoir, spring or other
4 source of water supply, whether on the surface or under-
5 ground, in whole or in part, within the limits of said
6 towns of Dighton, Somerset and Swansea, as may be
7 approved by the state board of health; and may obtain
8 and take water by means of driven, bored, artesian or
9 other wells on any land within said limits, and may also
10 take or acquire, subject to the approval of said state
11 board of health, by lease, purchase or otherwise, all
12 lands, rights of way and easements necessary for holding
13 and preserving such water and the purity thereof, and
14 for conveying the water to any part of said towns. Said
15 corporation may erect on the lands so taken or acquired
16 such dams, buildings, reservoirs, filtering galleries, stand
17 pipes, fixtures and other structures, apparatus or equip-
18 ment as may be necessary for the establishment and
19 maintenance of a complete and effective system of water
20 works, and may do all other acts reasonably necessary
21 to carry out the purposes for which said corporation is
22 incorporated. It may make excavations, procure and
23 operate machinery, lay and maintain aqueducts, con-
24 duits, pipes and other works under or over any land,
25 water courses, canals, dams, railroads, railways, and
26 public or private ways and along any highway or other
27 way in said towns in such manner as not unnecessarily to
28 obstruct the same; and for the purpose of constructing,
29 laying, maintaining and repairing such aqueducts, con-
30 duits, pipes and other works, and for all other purposes of
31 this act, said corporation may dig up, raise and embank

32 any such lands, highways or other ways in such manner
33 as to cause the least hindrance to public travel, subject
34 to the approval of the selectmen of the respective towns
35 as to highways or other ways within their control. Said
36 corporation shall not enter upon, construct or lay any
37 conduits, pipes or other works within the location of any
38 railroad corporation except at such time and in such
39 manner as it may agree upon with such corporation, or
40 in case of failure so to agree, as may be approved by the
41 public service commission.

1 SECTION 3. Said corporation shall, within sixty days
2 after voting to take any lands, rights of way, water rights,
3 water sources, or easements as aforesaid, file and cause to
4 be recorded in the registry of deeds for the county and
5 district in which the same are situated, a description
6 thereof sufficiently accurate for identification, with a
7 statement of the purpose for which the same were taken,
8 signed by the president of the corporation. The record-
9 ing shall operate as a taking of the real estate and rights
10 and easements therein described.

1 SECTION 4. Said corporation shall pay all damages to
2 property sustained by any person, firm or corporation by
3 the taking of any land, right of way, water, water source,
4 water right, or easement, or by any other thing done by
5 said corporation under the authority of this act. Any
6 person, firm or corporation sustaining damages as afore-
7 said and failing to agree with said corporation as to the
8 amount thereof, may have the same assessed and de-
9 termined in them anner provided by law in the case of
10 land taken for the laying-out of highways, on application
11 at any time within, but not after, two years from the

12 taking of such land or other property, or the doing of any
13 other injury under the authority of this act. No applica-
14 tion for the assessment of damages shall be made for the
15 taking of any water or water right, or for any injury
16 thereto, until the water is actually withdrawn or diverted
17 by said corporation under the authority of this act. Said
18 corporation may by vote from time to time determine
19 what amount or quantity of water it proposes to take
20 under this act; and in such case damages caused by the
21 taking shall be based upon the said amount or quantity
22 until the same shall be increased by vote or otherwise,
23 and in that event said corporation shall be liable further
24 only for the additional damages caused by such additional
25 taking.

1 SECTION 5. Said corporation may distribute water
2 through said towns of Dighton, Somerset and Swansea,
3 or any part thereof, and may regulate the use of said
4 water, and may fix the rates to be paid for the use of the
5 same, subject, however, to the power now vested in the
6 board of gas and electric light commissioners to regulate
7 said rates; and may collect such rates, and may make
8 contracts with any of said towns, acting by their re-
9 spective selectmen, and with any fire or water supply
10 district now or hereafter established therein, and with
11 any individual, corporation, departments of the common-
12 wealth and of the United States therein, to supply water
13 for the extinguishment of fires and for domestic, manu-
14 facturing or other purposes.

1 SECTION 6. Said corporation may, for the purposes set
2 forth in this act, hold real estate not exceeding in value
3 two hundred thousand dollars.

1 SECTION 7. The amount of capital stock of the cor-
2 poration shall be fixed at the first meeting of the stock-
3 holders: *provided, however,* that it shall not exceed five
4 hundred thousand dollars; and a certificate thereof shall
5 be filed with the secretary of the commonwealth within
6 thirty days after the amount of the capital stock has been
7 fixed. The capital stock may be increased or diminished
8 thereafter, as provided in section thirty-five of chapter
9 seven hundred and forty-two of the acts of the year
10 nineteen hundred and fourteen. Shares shall be of the
11 par value of one hundred dollars each. Said corporation
12 may, for the purpose of this act, issue stocks and bonds
13 only in accordance with the powers, limitations and re-
14 strictions contained in chapter seven hundred and eighty-
15 seven of the acts of the year nineteen hundred and
16 fourteen, and acts in amendment thereof and in addition
17 thereto. Payment for such stocks and bonds may be
18 made either in cash or in property, real or personal, or
19 legal, engineering or other services, at the fair cash value
20 of such property or services, such value to be fixed by the
21 board of directors of said corporation subject to the
22 approval of the board of gas and electric light commis-
23 sioners.

1 SECTION 9. Said corporation shall have the authority
2 to acquire by lease or purchase any property, water pipes,
3 meters, or other apparatus or equipment constituting or
4 incidental to or used in connection with any water supply
5 system now located in any of said towns.

1 SECTION 10. At any time after fifteen years and
2 within twenty-five years from the date of the passage of
3 this act, said towns of Dighton, Somerset and Swansea,
4 or any one or two of said towns, upon obtaining appro-

5 priate legislation to enable them to act as a water supply
6 district, or otherwise, may purchase the franchise and all
7 the rights, privileges and property of said water company
8 owned by it and used in supplying water, upon payment
9 of the fair market value thereof; *provided, however,* that
10 such franchise, rights, privileges and property may not,
11 without the consent of said water company, be purchased
12 at less than the actual cost thereof, and in case the
13 dividends earned and paid by said corporation since its
14 creation on its stock shall have been less than six per
15 cent per annum, there shall be added to such cost such a
16 sum as will make the net returns to the stockholders six
17 per cent per annum on the investment. If the water
18 supply district or any one or more of said towns, as the
19 case may be, and the water company shall be unable to
20 agree upon the value of said franchise, rights, privileges
21 and property, either party with notice to the other may
22 apply to the supreme judicial court for the determination
23 of said value. Said court shall refer the application to
24 the board of gas and electric light commissioners, who
25 shall hear the parties and determine the value of said
26 franchise, rights, privileges and property, in accordance
27 with the provisions herein prescribed, and the award of
28 said board, when accepted by the court, shall be final.
29 The award shall not be set aside or recommitted for error
30 in law, unless the court is satisfied that such error has
31 substantially affected the interests of the party complain-
32 ing thereof, and in that event the court may recommit
33 the award to the board, with such directions as justice
34 may require.

1 SECTION 11. Whoever wilfully or wantonly corrupts,
2 pollutes or diverts any water taken or held under au-
3 thority of this act, or injures any structure, work or other

4 property owned, held or used by said corporation under
5 authority of this act, and for the purposes of this act,
6 shall forfeit and pay to said corporation three times the
7 amount of damages assessed therefor, to be recovered in
8 an action of tort; and upon conviction of any of the
9 above wilful or wanton acts, shall be punished by a fine
10 of not exceeding three hundred dollars or be imprisoned
11 for a time not exceeding one year.

1 SECTION 12. This act shall take effect upon its
2 passage.

