

HOUSE No. 53.

Bill accompanying the petition of John L. Gale and others for the incorporation of the Bedford Water Company. Water Supply. January 4.

Commonwealth of Massachusetts.

In the Year One Thousand Nine Hundred and Seven.

AN ACT

To incorporate the Bedford 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. John C. Stolze, George F. Atkins,
2 George C. Griffith, F. C. Cox, and Charles J. Huntley,
3 their associates and successors, are hereby made a cor-
4 poration by name of the Bedford Water Company, for
5 the purpose of supplying the inhabitants of the town of
6 Bedford, or any part thereof, with water for domestic,
7 manufacturing and other purposes including the ex-
8 tinguishment of fires, with all the powers and privileges,
9 and subject to all the duties, restrictions and liabilities
10 set forth in the general laws which are now or may here-
11 after be in force applicable to such corporations.

1 SECTION 2. Said corporation, for the purposes afore-
2 said, may take by purchase or otherwise, and hold the
3 waters or so much thereof as may be necessary, of
4 Nutting's pond within the town of Billerica, and any
5 springs, streams, wells or any filter galleries or wells
6 that may be constructed upon the shore of said pond
7 within the limits of the said town of Billerica, together
8 with any water rights connected therewith, also all lands,
9 rights of way or easements necessary for holding and pre-
10 serving such water and for conveying the same to any
11 part of the town of Bedford, and may erect on the land
12 thus taken or held proper dams, buildings, fixtures and
13 other structures, and may make excavations, procure and
14 operate machinery, and provide such other means
15 and appliances as may be necessary for the establish-
16 ment and maintenance of complete and effective water
17 works. Said corporation may construct and lay down
18 conduits, pipes and other works, under or over any
19 lands, water courses, railroads or public or private ways,
20 or along any such ways in such manner as not unneces-
21 sarily to obstruct the same; and for the purpose of con-
22 structing, and maintaining and repairing such conduits,
23 pipes and other works, and for all proper purposes of
24 this act, said corporation may dig up any such lands and
25 ways: *provided, however*, that said company shall not
26 enter upon and dig up any public ways except with the
27 approval of the board of selectmen of the town in which
28 such ways are situated, after a public hearing by said
29 board, of which at least ten days' notice shall be given
30 by publishing an attested copy of said notice in a news-
31 paper published in said town, if any, and by posting an
32 attested copy of said notice in at least five public places
33 in said town; and *provided, further*, that no hearing shall
34 be necessary in cases where said ways are to be entered

35 upon and dug up by said company for the purpose of
36 constructing extensions to its plant and maintaining and
37 repairing such conduits, pipes and other works.

1 SECTION 3. Said corporation shall, within ninety
2 days after the taking of any lands, rights of way, water
3 rights, water sources or easements as aforesaid, other-
4 wise than by purchase, file and cause to be recorded in
5 the registry of deeds for Middlesex county 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.

1 SECTION 4. Said corporation shall pay all damages sus-
2 tained by any person or corporation in property by the
3 taking of any land, right of way, water, water sources,
4 water right, or easement, or by any other thing done
5 by said corporation under the authority of this act.
6 Any person or corporation sustaining damages as afore-
7 said under this act, who fails to agree with said corpora-
8 tion as to the amount of damages sustained, may have
9 the damages assessed and determined in the manner
10 provided by law when land is taken for the laying out of
11 highways, on application at any time within three years
12 from the taking of such land or other property or the
13 doing of any other injury under the authority of this
14 act; but no such application shall be made after the
15 expiration of three years. No application for the assess-
16 ment of damages shall be made for the taking of any
17 water, water right or water source, or for any injury
18 thereto, until the water is actually withdrawn or diverted
19 by said corporation under the authority of this act. Said
20 corporation may by vote, from time to time, fix and
21 determine what amount or quantity of water it proposes

22 to take and appropriate under this act; in which case
23 any damages caused by such taking shall be based upon
24 such amount or quantity until the same shall be increased
25 by vote or otherwise, in which event said corporation shall
26 be further liable only for the additional damages caused
27 by such additional taking.

1 SECTION 5. Said corporation may distribute said
2 water through said town of Bedford, or any part thereof,
3 and may regulate the use of the same and fix and collect
4 water rates to be paid therefor. And said town, or any
5 individual, corporation, or any fire district legally
6 organized in said town, may make such contracts with
7 said water company to supply water for the extinguish-
8 ment of fires or for other purposes as may be agreed upon
9 by said town, individual, corporation or fire district, and
10 said Bedford Water Company.

1 SECTION 6. Said corporation may, for the purposes
2 set forth in this act, hold real estate not exceeding in
3 amount ten thousand dollars; and the whole capital stock
4 of said corporation shall not exceed two hundred thousand
5 dollars, to be divided into shares of one hundred dollars
6 each.

1 SECTION 7. Immediately after the payment of the
2 capital stock of said company a certificate of that fact,
3 and of the manner in which the same has been paid in
4 and at the time of making the certificate has been in-
5 vested, signed and sworn to by the president, treasurer,
6 and a majority at least of the directors, and approved by
7 the commissioner of corporations, shall be filed in the
8 office of the secretary of the Commonwealth. A con-
9 veyance to the corporation of property, real or personal

10 at a fair valuation, shall be deemed a sufficient paying in
11 of the capital stock to the extent of such value, if a state-
12 ment is included in the certificate, made, signed and
13 sworn to by its president, treasurer and a majority of
14 its directors giving a description of such property and
15 the value at which it has been taken in payment, in such
16 detail as the commissioner of corporations shall require
17 or approve, and endorsed with his certificate that he is
18 satisfied that said valuation is fair and reasonable.

1 SECTION 8. Said corporation may issue bonds and
2 secure the same by a mortgage on its franchise and other
3 property to an amount not exceeding its capital stock
4 actually paid in. The proceeds of all bonds so issued
5 shall be expended only in the extension of the works
6 of the company and for the payment of expenditures
7 actually made in the construction of the works, over
8 and above the amount of the capital stock actually paid
9 in.

1 SECTION 9. The capital stock and bonds hereinbe-
2 fore authorized shall be issued only in such amounts as
3 may from time to time upon investigation by the com-
4 missioner of corporations, be deemed by him to be
5 reasonably requisite for the purposes for which such
6 issue of stock or bonds has been authorized. His de-
7 cision approving such issue shall specify the respective
8 amounts of stock and bonds authorized to be issued, and
9 the purposes to which the proceeds thereof are to be
10 applied. A certificate setting forth his decision shall be
11 filed in the office of the secretary of the Commonwealth
12 before the certificates of stock or the bonds are issued,
13 and the proceeds of such stock or bonds shall not be
14 applied to any purpose not specified in such decision.

1 SECTION 10. Whoever wilfully or wantonly cor-
2 rupts, pollutes or diverts any of the waters taken or
3 held under this act, or injures any structure, work or
4 other property owned, held or used by said corporation
5 under the authority 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 being convicted of either
9 of the above wilful or wanton acts shall be punished by
10 a fine not exceeding three hundred dollars or by impris-
11 onment in jail not exceeding one year.

1 SECTION 11. Said town of Bedford shall have the
2 right, at any time during the continuance of the charter
3 hereby granted, to take, by purchase or otherwise, the
4 franchise, corporate property and all the rights and privi-
5 leges of said corporation, on payment to said corporation,
6 of the total actual cost of its franchise, works and prop-
7 erty of any kind held under the provisions of this act,
8 including in such cost interest on each expenditure from
9 its date to the date of taking, as hereinafter provided, at
10 the rate of five per cent per annum. If the cost of
11 maintaining and operating the works of said corporation
12 shall exceed in any year the income derived from said
13 works by said corporation for that year, then such excess
14 shall be added to the total actual cost; and if the income
15 derived from said works by said corporation exceeds in
16 any year the cost of maintaining and operating said
17 works for that year, then such excess shall be deducted
18 from the total actual cost. Said town, on taking as
19 herein provided the property of said corporation, shall
20 assume all of its outstanding obligations, including the
21 bonds authorized in this act, and the amount thus as-
22 sumed shall be deducted from the total amount to be

16 of this act, upon such terms and conditions as it may
17 deem proper. Said town shall pay the interest upon
18 said loan as it accrues, and shall provide for the pay-
19 ment of said principal at maturity, by establishing at
20 the time of contracting said debt a sinking fund, or from
21 year to year by such proportionate payments as will
22 extinguish the same within the time prescribed by this
23 act. In case said town shall decide to establish a sink-
24 ing fund it shall contribute thereto annually a sum of
25 money sufficient with its accumulations to pay the prin-
26 cipal of said loan at maturity; and said sinking fund
27 shall remain inviolate and pledged to the payment of
28 said debt and shall be used for no other purpose. If
29 said town shall decide to pay the principal of said loan
30 by instalments such amounts as may be necessary to
31 make such payments shall, without further vote of said
32 town, be raised annually by taxation in the same manner
33 as money is raised for other town expenses.

1 SECTION 13. Said town shall, after its purchase of
2 said franchise and corporate property, as provided in
3 this act, at a legal meeting called for the purpose, elect
4 by ballot three persons to hold office, one until the ex-
5 piration of three years, one until the expiration of two
6 years and one until the expiration of one year from the
7 next succeeding annual town meeting, to constitute a
8 board of water commissioners; and at each annual town
9 meeting thereafter one such commissioner shall be elected
10 by ballot for the term of three years.

1 SECTION 14. All the authority granted to said town
2 by this act and otherwise specifically provided for shall
3 be vested in said water commissioners, who shall be
4 subject, however, to such restrictions, rules and regula-

5 tions as said town may impose by its votes. Said com-
6 missioners shall be trustees of the sinking fund herein
7 provided for, and a majority of said commissioners shall
8 constitute a quorum for the transaction of business rela-
9 tive both to the water works and to the sinking fund.
10 Any vacancy occurring in said board for any cause may
11 be filled for the remainder of the unexpired term by
12 said town at any legal town meeting called for the
13 purpose.

1 SECTION 15. Said town shall raise annually by taxa-
2 tion a sum which with the income derived from the
3 water rates will be sufficient to pay the current annual
4 expenses of operating its water works and the interest
5 as it accrues on the bonds, notes or scrip issued as
6 aforesaid by said town, and to make such contributions
7 to the sinking fund as may be required under the provi-
8 sions of this act. Said town is further authorized, by a
9 two-thirds vote of the voters of said town present and
10 voting at any legal meeting, to raise by taxation any
11 sum of money for the purpose of enlarging or extending
12 its water works and providing additional appliances and
13 fixtures connected therewith, not exceeding
14 dollars in any one year.

1 SECTION 16. This act shall take effect upon its
2 passage but shall become void unless said water company
3 shall have commenced to distribute water through its
4 pipes to consumers in said town within three years from
5 the date of its passage.

