

HOUSE No. 2237

Bill accompanying the petition of Waldo M. Oakman and others for the incorporation of the Marshfield Water Company. Water Supply. March 4.

The Commonwealth of Massachusetts.

In the Year One Thousand Nine Hundred and Fourteen.

AN ACT

To incorporate the Marshfield 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. Waldo M. Oakman, Henry H. Cudworth,
2 Winthrop T. Hall, A. Lester Sherman, Edward J. Ball,
3 John H. Flavell, Granville D. Damon, Frank E. Rogers,
4 Howard W. O. Damon, and Willard F. Little, their
5 associates and successors, are hereby made a corporation
6 by the name of the Marshfield Water Company, for the
7 purpose of supplying the inhabitants of the town of
8 Marshfield, or any part thereof, with water for the ex-
9 tinguishment of fires and for domestic, manufacturing
10 and other purposes; with all the powers and privileges,
11 and subject to all the duties, restrictions and liabilities
12 set forth in all general laws now or hereafter in force
13 applicable to such corporations.

1 SECTION 2. Said corporation, for the purposes afore-
2 said, may lease, take, or acquire by purchase or other-
3 wise, and hold and convey the waters of any ponds,
4 brooks, or springs within the limits of said town of
5 Marshfield, and may obtain and take water by means of
6 driven, bored, artesian or other well on any land within
7 the limits of said town; and hold them and convey said
8 waters through said town; and (may also) take and hold,
9 by lease or otherwise, all lands, rights of way and ease-
10 ments necessary for holding and preserving such water
11 and conveying the same to any part of said town, and
12 erect on the land thus taken or held proper dams, fix-
13 tures or other structures; and (may) make excavations,
14 procure and operate machinery, and provide such other
15 means and appliances as may be necessary for the estab-
16 lishment and maintenance of complete and effective
17 water works; and (may) construct and lay down con-
18 duits, pipes and other works, over and under any lands,
19 water courses, railroads, highways, town ways, public or
20 private ways of any nature, kind or description, and
21 along such ways, and in such manner as not unneces-
22 sarily to obstruct the same; and for the purpose of con-
23 structing, maintaining and repairing said conduits, pipes
24 and other works, and for the proper purposes of this act,
25 said corporation may dig up any such lands, and, under
26 the direction of the board of selectmen of said town of
27 Marshfield, enter upon and dig up any such ways in
28 such manner as to cause the least hindrance to public
29 travel thereon. The right hereinbefore granted to dig
30 up said lands and ways, to lease, take, acquire and hold
31 waters and convey them through said town for the pur-
32 pose of the establishment and maintenance of complete
33 and effective water works, shall apply equally to waters
34 now owned by said persons named in section one of this

35 act, or any of them, and to structures, dams, conduits
36 and other appurtenances to complete and effective water
37 works, now owned and laid by them or either of them.

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

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

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

1 SECTION 5. Said corporation may distribute water
2 through the said town of Marshfield, or any part thereof,
3 may regulate the use of the same and may establish and
4 fix, from time to time, the rates for the use of said water
5 and collect the same; and may make such contracts with
6 the said town or with any fire district now or hereafter
7 established therein, or with any individual or corpora-
8 tion, to supply water for the extinguishing of fires or for
9 other purposes as may be agreed upon.

1 SECTION 6. Said corporation may, for the purpose
2 set forth in this act, hold real estate not exceeding in
3 value fifteen thousand dollars, and the capital stock of
4 said corporation shall not exceed one hundred thousand
5 dollars, to be divided into shares of one hundred dollars
6 each. If it be necessary for the purpose of said corpora-
7 tion an increase of capital stock may be authorized by
8 the commissioner of corporations in the manner provided
9 in sections thirty and thirty-one of chapter one hundred
10 and nine of the Revised Laws, and in any amendment
11 thereof now existing or hereafter made.

1 SECTION 7. Immediately after the issue of the capital
2 stock of said company a certificate of that fact and of
3 the manner in which the same has been paid for, and,
4 at the time of making the certificate, has been invested,
5 signed and sworn to by the president, treasurer, and a

6 majority of the directors, and approved by the commis-
7 sioner of corporations, shall be filed in the office of the
8 secretary of the commonwealth. A conveyance to the
9 corporation of property, real or personal, at a fair valu-
10 ation, shall be deemed a sufficient payment for capital
11 stock to the extent of such value, if a statement is in-
12 cluded in the certificate, made, signed and sworn to by
13 its president, treasurer, and a majority of its directors,
14 giving a description of such property and the value at
15 which it has been taken in payment, in such detail as
16 the commissioner of corporations shall require or approve,
17 and endorsed with his certificate that he is satisfied that
18 said valuation is fair and reasonable.

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

1 SECTION 9. Capital stock and bonds hereinbefore
2 authorized shall be issued only in such amounts as may
3 from time to time upon investigation by the commissioner
4 of corporations be deemed by him to be reasonably
5 requisite for the purposes for which such stocks or bonds
6 are authorized. His decision approving such issue shall
7 specify the respective amounts of stock and bonds au-
8 thorized to be issued, and the purposes to which the pro-
9 ceeds thereof are to be applied. A certificate setting
10 forth his decision shall be filed in the office of the secre-
11 tary of the commonwealth before the stocks or bonds are
12 issued, and the proceeds of the sales of such stock or

13 bonds shall not be applied to any purpose not specified
14 in such decision.

1 SECTION 10. Whoever wilfully or wantonly corrupts,
2 pollutes or diverts any water taken or held under this act,
3 or injures any structure, work or other property owned,
4 held or used by said corporation under authority of this
5 act, shall forfeit and pay to said corporation three times
6 the amount of damages assessed therefor, to be recovered
7 in an action of tort; and upon being convicted of any
8 of the above wilful or wanton acts shall be punished by
9 a fine not exceeding three hundred dollars, or imprison-
10 ment in jail for a term not exceeding one year.

1 SECTION 11. The town of Marshfield shall have the
2 right at any time during the continuance of the charter
3 hereby granted to acquire, by purchase or by exercise
4 of the right of eminent domain, the franchise, property,
5 and all the rights and privileges of said corporation, on
6 payment to said corporation of the actual cost of its
7 franchise, works and property of any kind held under
8 the provisions of this act; and unless the dividends
9 earned and declared by said company on its stock shall
10 have been equal to or in excess of five per cent per annum,
11 there shall be added to the cost of the work such a sum
12 as would make the net return to the stockholders five per
13 cent per annum on the investment. The town, on taking
14 the property of said corporation as herein provided, shall
15 assume all of its outstanding obligations incurred in the
16 acquisition, construction or improvement of the property,
17 including bonds secured by mortgage issued under au-
18 thority of this act, and the amount thus assumed shall
19 be deducted from the total amount to be paid by said
20 town of Marshfield. The company shall furnish the town

21 an itemized statement under oath of the actual cost of
22 the water supply system authorized under this act, to-
23 gether with a copy of all contracts made in providing
24 and constructing said water supply system and any ex-
25 tension thereof, and shall furnish to said town, annually,
26 an itemized statement, under oath, of its receipts and
27 expenditures during the past year, which statement shall
28 be submitted by the selectmen to the citizens of the town
29 at the annual town meeting. This authority to take the
30 said franchise and property is granted on condition that
31 such taking is voted for by the said town by a two thirds
32 vote of the voters present and voting at a meeting legally
33 called for that purpose; and the taking, if by exercise
34 of the right of eminent domain, shall be by filing in the
35 registry of deeds for the county of Plymouth the declara-
36 tion of such taking which shall include a certified copy
37 of the article in the warrant under which the town acted,
38 and of the vote of the town thereon showing that it was
39 passed by a two thirds vote, as herein required. In case
40 the town and the corporation shall be unable to agree
41 upon the actual cost of said property, the supreme judi-
42 cial court shall, upon application of either, and notice to
43 the other, appoint three commissioners who shall deter-
44 mine the actual cost of said property, and whose award,
45 when accepted by the court, shall be final. Interest at
46 the rate of six per cent shall be included in said award
47 from the date of the taking or purchase.

1 SECTION 12. Said town may for the purpose of paying
2 the cost of said franchise and corporate property, and
3 the necessary expenses and liabilities incurred under the
4 provisions of this act, issue from time to time bonds,
5 notes or scrip, to an amount not exceeding in the aggre-
6 gate two hundred and fifty thousand dollars. Such bonds,

7 notes or scrip, shall bear on their faces the words, Marsh-
8 field Water Loan; shall be payable at the expiration of
9 periods not exceeding thirty years from date of issue;
10 shall bear interest, payable semi-annually, at a rate not
11 exceeding five per cent per annum; shall be signed by
12 the treasurer of the town and countersigned by the water
13 commissioners hereinafter provided for. Said town may
14 sell such securities at public or private sale, or pledge
15 the same for money borrowed for the purpose of this act,
16 upon such terms and conditions as it may deem proper;
17 but such securities shall not be sold for less than their
18 par value. Said town shall pay the interest on said loan
19 as it accrues, and shall at the time of authorizing said
20 loan provide for the payment thereof in such annual
21 proportionate payments, beginning not more than five
22 years after the first issue of such bonds, notes or scrip, as
23 will extinguish the same within the time prescribed by
24 this act; and when a vote to that effect has been passed,
25 a sum which, with the income derived from water rates,
26 will be sufficient to pay the annual expense of operating
27 its water works, and the interest it accrues on the bonds,
28 notes or scrip, issued as aforesaid by said town, and to
29 make such payments on the principal as may be required
30 under the provisions of this act, shall, without further
31 vote, be assessed by the assessors of said town in each
32 year thereafter in the same manner in which other taxes
33 are assessed under the provisions of law until the debt
34 incurred by said loan is extinguished.

1 SECTION 13. Said town shall, after purchasing or
2 taking the said franchise and corporate property, as
3 provided in this act, at a legal meeting called for the
4 purpose elect by ballot three persons to hold office, one
5 until the expiration of three years, one until the expira-

6 tion of two years, and one until the expiration of one year
7 from the next succeeding 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. All the authority
11 granted to the said town by this act and not otherwise
12 specifically provided for shall be vested in said water
13 commissioners, who shall be subject however to such in-
14 structions, rules and regulations as said town may impose
15 by its vote. A majority of said commissioners shall
16 constitute a quorum for the transaction of business. Any
17 vacancy occurring in said board for any cause may be
18 filled for the remainder of the unexpired term by said
19 town at any legal town meeting called for the purpose.
20 Any such vacancy may be filled temporarily by a majority
21 vote of the selectmen, and the person appointed shall hold
22 office until the town fills the vacancy in the manner pro-
23 vided herein.

1 SECTION 14. Said commissioners shall fix just and
2 equitable rates for the use of water and shall prescribe
•3 a time and manner of payment. The income of the water
4 works shall be applied to defraying all operating expenses,
5 interest charges and payments on the principal as they
6 accrue upon any bonds, notes or scrip issued under au-
7 thority of this act. If there should be a net surplus re-
8 maining after providing for the aforesaid charges, it shall
9 be used for new construction, or the water rates shall be
10 reduced proportionately. No money shall be expended
11 in new construction by the water commissioners except
12 from the net surplus aforesaid, unless the town appro-
13 priates or provides money therefor. Said commissioners
14 shall, annually and as often as the town may require,
15 render a report upon the condition of the works under

16 their charge, and an account of their doings, including
17 an account of receipts and expenditures.

1 SECTION 15. Any fire district now existing or here-
2 after established within the town of Marshfield for the
3 purpose of supplying the inhabitants thereof with water
4 for the extinguishing of fires, for domestic, manufactur-
5 ing and other purposes, shall have all the rights and
6 privileges herein granted to, and be subject to all the
7 obligations, duties and liabilities herein imposed upon,
8 said town.

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