

SENATE No. 202.

Commonwealth of Massachusetts

IN SENATE, March 28, 1872.

The Committee on Mercantile Affairs, to whom was committed the Bill for supplying the town of Winchester with pure water, and a petition of Oliver R. Clark and others, report that the Bill ought to pass in a new draft.

Per order,

ROBERT O. FULLER.

Commonwealth of Massachusetts.

In the Year One Thousand Eight Hundred and Seventy-
Two.

AN ACT

For supplying the Town of Winchester with Pure
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 SECT. 1. The town of Winchester is hereby
2 authorized, by and through the agency of three com-
3 missioners to be appointed in the manner to be here-
4 inafter provided, to take, hold and convey by steam
5 or other power, into and through the said town, by
6 suitable aqueducts or pipes, the waters of Wedge
7 Pond and Winter Pond, so called, and may also take
8 and hold by purchase or otherwise any real estate or
9 water rights necessary for the construction of such
10 aqueducts, pipes, pumps, dams, reservoirs or other
11 structures as may be necessary or convenient for the

12 preservation and purity of said waters, and for col-
13 lecting, conducting and distributing the same in said
14 town of Winchester, and may make reservoirs and
15 hydrants, and may distribute the said water through
16 said town by laying down pipes, and may establish
17 from time to time prices or rents for the supply or
18 use of said water.

1 SECT. 2. Within sixty days after the taking of any
2 of the land aforesaid, said town, through the same
3 agency, shall file, in the registry of deeds for the
4 county in which the land lies, a description thereof
5 sufficiently accurate for identifying the same. All
6 claims for damages sustained by taking lands, water
7 or water rights, or by making aqueducts, reservoirs
8 or other works, shall be ascertained, determined and
9 recovered, in the manner now provided by law in
10 case of land taken for highways, except that the com-
11 plaint may be filed within three years after said
12 taking.

1 SECT. 3. For the purpose of defraying the cost of
2 such property, lands, water and water rights as are
3 taken, purchased or held for the purposes aforesaid,
4 and of constructing works necessary and proper for
5 the accomplishment of the purposes authorized by
6 this act, and paying all the expenses incident thereto,
7 the said town of Winchester may, by and through
8 the same agency, issue, from time to time, scrip, notes
9 or certificates of debt, to an amount not exceeding
10 two hundred thousand dollars, the same to be denom-
11 inated on its face, "Winchester Water Fund Bonds."
12 All such scrip shall bear interest payable semi-

13 annually, and the principal shall be payable at
14 periods not more than twenty years from the issuing
15 of said scrip, notes or certificates respectively; and
16 the same, or any part thereof, may be sold, from time
17 to time, at public or private sale, for the purpose
18 aforesaid, on such terms and conditions as said com-
19 missioners may deem proper. Said town is author-
20 ized to make appropriations and assess, from time to
21 time, such amounts as it may, from year to year,
22 decide, not exceeding in any one year prior to the
23 year in which the bonds mature, the sum of ten
24 thousand dollars, towards paying the principal of the
25 money so borrowed; and also a sum sufficient to pay
26 the interest thereon, in the same manner as money is
27 assessed and appropriated for other town purposes.

1 SECT. 4. Three commissioners shall be chosen by
2 the said town by ballot, who shall, during their con-
3 tinuance in office, execute, superintend and direct the
4 performance and execution of all the works, matters
5 and things mentioned in the preceding sections, that
6 are not specially otherwise provided for in this act;
7 and they shall be subject to such rules and regula-
8 tions, in the execution of their said trust, as the said
9 town may from time to time ordain and establish, not
10 inconsistent with the provisions of this act and the
11 laws of this Commonwealth.

12 They shall respectively hold their said offices for
13 the term of three years next after their appointment,
14 unless the works aforesaid shall sooner be completed.

15 A major part of said commissioners shall be a quo-
16 rum to do business. They shall, once a year, and
17 whenever required by the selectmen of the town,

18 make and present, in writing, a full and particular
19 statement of all their acts and doings, and of the
20 condition and progress of the work aforesaid. The
21 compensation of said commissioners shall be estab-
22 lished by the town at the meeting at which they shall
23 be respectively elected, and shall not be altered dur-
24 ing their continuance in office.

1 SECT. 5. Whenever the office of said commis-
2 sioners shall cease either by the expiration of their
3 term of office or the completion of the work, all the
4 rights, powers and authority given to said commis-
5 sioners by this act, shall then and thenceforth be
6 exercised by the said town, subject to the duties, lia-
7 bilities and restrictions herein contained, in such
8 manner and by such officers and agents as the said
9 town shall from time to time ordain and direct.

1 SECT. 6. If any person shall use any of the said
2 water, without the consent of the said town, an
3 action of tort may be maintained by the inhabit-
4 ants of said town for the recovery of damages there-
5 for; and if any person shall wantonly or maliciously
6 divert the water or any part thereof, of any springs
7 or brooks or water-courses which shall be taken pur-
8 suant to the provisions of this act, or shall corrupt
9 the same, or render it impure, or destroy or injure
10 any dam, reservoir, aqueduct, pipe, conduit, hydrant,
11 machinery or other works or property held, owned
12 or used by said town, by the authority and for the
13 purposes of this act, every such person shall forfeit
14 and pay to said district three times the amount of the
15 damages that shall be assessed therefor, in an action

16 of tort in the name of the inhabitants of said town ;
17 and any such person, on conviction of either of the
18 wanton or malicious acts aforesaid, may also be pun-
19 ished by fine not exceeding three hundred dollars or
20 imprisonment not exceeding one year.

1 SECT. 7, Nothing in this act shall be construed as
2 giving any increased rights of drainage into any of
3 the water-courses or ponds of said town of Winches-
4 ter.

1 SECT. 8. The selectmen of the town of Win-
2 chester shall warn a meeting of the voters of said
3 town within one year from the passage of this act for
4 the purpose of having said voters give in their votes
5 upon the question whether they will accept the same ;
6 and if two-thirds of said votes given upon the ques-
7 tion shall be in the affirmative, then this act shall be
8 binding ; otherwise it shall be null and void.

1 SECT. 9. This act shall take effect upon its pas-
2 sage.