

SENATE....No. 320.

Commonwealth of Massachusetts.

IN SENATE, May 12, 1869.

The Joint Special Committee consisting of the Judiciary Committees of the two branches, to whom was committed the Bill in addition to an Act for supplying the city of Lowell with water, report that it ought to pass.

BENJ. DEAN, *Chairman.*

Commonwealth of Massachusetts.

In the Year One Thousand Eight Hundred and Sixty-
Nine.

AN ACT

In addition to "An Act for Supplying the City of Lowell
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 SECT. 1. The city of Lowell is hereby authorized
2 to take, hold and convey to, into and through the
3 said city from Beaver Brook, so called, in the town
4 of Dracut, Long Pond, in Dracut, and Tyng's Pond,
5 in Dracut and Tyngsborough, and the waters which
6 flow into and from the same, sufficient water for the
7 use of said city and the inhabitants thereof, for the
8 extinguishment of fires, creating steam, domestic and
9 other purposes; and may also take and hold, by pur-
10 chase or otherwise, any lands or real estate necessary
11 for laying and maintaining aqueducts or pipes for
12 conducting, discharging, disposing of and distributing
13 water, constructing and maintaining reservoirs, dams
14 and such other works as may be deemed necessary or

15 proper for raising, forcing, retaining, distributing, dis-
16 charging or disposing of said water; and may take
17 and hold any land on and around said ponds and
18 Beaver Brook, for the purpose of raising water to
19 such height as may be necessary for the purity and
20 preservation of the same, and for the purpose of fur-
21 nishing a supply of pure water for the said city of
22 Lowell.

1 SECT. 2. The city of Lowell shall, within sixty
2 days from the time they shall take any lands, ponds
3 or streams of water for the purposes of this act, file
4 in the office of the registry of deeds for the northern
5 district of Middlesex, a description of the lands,
6 ponds or streams of water so taken, as certain as is
7 required in a common conveyance of lands, and a
8 statement of the purposes for which they were taken,
9 which description and statement shall be signed by
10 the mayor of said city.

1 SECT. 3. The said city may make, build, lay down
2 and maintain aqueducts and pipes from any of said
3 sources to, into, through and about said city, and
4 secure and maintain the same by any works suitable
5 therefor; may connect said Tyng's Pond and Long
6 Pond with each other; may erect and maintain dams
7 to raise and retain the water taken; may construct
8 and maintain reservoirs within or without said city;
9 and may make, erect and maintain and carry on such
10 other works as may be necessary or proper for rais-
11 ing the water into the same, and forcing and distribut-
12 ing the water through and about said city; may make
13 and establish such public fountains and hydrants, in

14 such places as may from time to time be deemed
15 proper, and prescribe the purposes for which the
16 same may be used, and may change or discontinue
17 the same; may distribute the water throughout the
18 city, and for this purpose may lay down pipes to any
19 house or building in said city, the owner or owners
20 thereof having notice, and not objecting thereto;
21 may regulate the use of said water, within and with-
22 out the said city, and establish, receive and collect
23 the prices or rents to be paid therefor; and the said
24 city may, for the purpose aforesaid, carry and conduct
25 and maintain any aqueducts, pipes or other works
26 by them to be made, laid down or conducted over,
27 under, through or across any water-course, canal,
28 street, bridge, railroad, highway or other way, in such
29 a manner as not to obstruct the travel or free use
30 thereof; may enter upon and dig up any such road,
31 street or way for the purpose of laying down pipes
32 beneath the surface thereof, and for maintaining and
33 repairing the same, and in general may do any other
34 acts and things necessary or convenient and proper
35 for carrying out the purposes of this act.

1 SECT. 4. All pipes, aqueducts and other works
2 constructed or erected by said city, by virtue of this
3 act, in, under or over any of the canals of "The Pro-
4 prietors of the Locks and Canals on Merrimack River,"
5 shall be so constructed, erected and laid, as, when
6 completed, not to obstruct the navigation in said
7 canals, or either of them, or to interrupt or impede
8 the flow of the water in the same.

1 SECT. 5. The rights, powers and authorities given
2 to the city of Lowell by this act, shall be exercised

3 by the said city, subject to the restrictions, duties and
4 liabilities herein contained, in such manner and by
5 such commissioners, officers, agents and servants as
6 the city council shall from time to time ordain,
7 appoint and direct.

1 SECT. 6. For the purpose of defraying the ex-
2 penses which may be incurred by the city of Lowell
3 in carrying into effect the powers granted by this act,
4 the said city of Lowell shall have authority, from
5 time to time, to borrow such sum or sums of money,
6 and to issue notes, scrip or certificates of debt there-
7 for, as the city council of Lowell shall from time to
8 time deem expedient, bearing interest not exceeding
9 the rate of six per cent. per annum; and the princi-
10 pal shall be made payable at periods not more than
11 twenty years from the issuing of said notes, scrip or
12 certificates of debt, respectively; and the city council
13 may sell the same, or any part thereof, from time to
14 time, at public or private sale, or pledge the same for
15 money borrowed for the purposes of this act, on such
16 terms and conditions as the city council shall judge
17 proper. And the city council of the said city is
18 hereby authorized, from time to time, to appropriate,
19 grant and assess such sum or sums of money as shall
20 be deemed expedient towards paying said expenses, or
21 the principal of the money so borrowed or obtained,
22 and the interest thereof, in the same manner as money
23 is appropriated, granted and assessed for other city
24 purposes.

1 SECT. 7. All persons and corporations who shall
2 be damaged in their property by the taking of any

3 lands or water, the building of reservoirs, aqueducts,
4 or water-works, or the laying of pipes, or in any other
5 way, in carrying into effect the powers hereby grant-
6 ed to the city of Lowell, unless the said city shall,
7 within sixty days after request in writing made to the
8 mayor of said city, pay or tender to the person or
9 corporation so damaged a reasonable compensation
10 therefor, shall have the same remedies as are provided
11 in the forty-third chapter of the General Statutes for
12 persons damaged by the laying out of highways.

1 SECT. 8. If any person shall use any of the said
2 water, either within or without said city, without the
3 consent of said city, an action of tort may be main-
4 tained by said city for the recovery of the damages
5 sustained.

1 SECT. 9. If any person wantonly or maliciously
2 shall divert the water from, or corrupt the water in,
3 or destroy or injure any aqueduct, reservoir, pipe,
4 conduit, hydrant, machine, or other works or prop-
5 erty held, owned or used by the said city of Lowell,
6 by the authority and for the purposes of this act,
7 every such person or persons shall forfeit and pay to
8 the said city three times the amount of damages that
9 shall be assessed therefor, to be recovered by any
10 proper action; and every such person or persons
11 may, moreover, on indictment for, and conviction of,
12 either of the wanton or malicious acts aforesaid, be
13 punished by fine not exceeding one thousand dollars,
14 and imprisonment not exceeding one year.

1 SECT. 10. This act shall take effect upon its
2 passage.