

SENATE . . . . . No. 202.

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Commonwealth of Massachusetts.

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SENATE, Mar. 31, 1881.

The Committee on Public Health, to whom referred the Petition of the town of Arlington for legislation to protect the purity of the water of Alewife Brook, and the petition of the Board of Health of the city of Somerville in aid of the same, report the accompanying Bill.

For the Committee,

N. A. HORTON.

## Commonwealth of Massachusetts.

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In the Year One Thousand Eight Hundred and Eighty-one.

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### AN ACT

Concerning Alewife Brook and certain Sewers in Cambridge and Somerville.

*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. The city of Cambridge shall construct  
2 an intercepting sewer of sufficient capacity, and by  
3 means thereof shall conduct the sewage of the  
4 Concord avenue, Spruce street, and North avenue  
5 sewers in said city, and of any sewer at any time  
6 discharging into either of said sewers, to some con-  
7 venient spot upon the poor-farm in said city; shall  
8 there construct a storage basin for the temporary  
9 deposit of such sewage, and by means of pumps or  
10 otherwise shall raise such sewage to a sufficient  
11 height to discharge the same by means of a connect-  
12 ing sewer, at a convenient point in the sewer in  
13 Newbury street in the city of Somerville; shall con-

14 struct such connecting sewer, and shall so discharge  
15 the said sewage for the term of five years from the  
16 first day of September next, the connection with the  
17 said Somerville sewer to be made on or before said  
18 first day of September; *provided, however*, that, if  
19 this method of disposing of said sewage be adjudged  
20 impracticable, as hereinafter provided, then the  
21 obligation imposed by this section shall be void;  
22 *and provided further*, that, whenever the city of Cam-  
23 bridge shall adopt and carry into active operation  
24 any other method of disposing of the sewage of the  
25 three sewers first above named, and sewers at any  
26 time discharging therein, than by a discharge into  
27 Alewife brook, the obligation imposed by this sec-  
28 tion shall be void.

1     SECT. 2. For the purposes named in the preced-  
2 ing section, the city council of Cambridge shall have  
3 the same right to take private land in Somerville as  
4 it now has to take land for sewers in Cambridge,  
5 and all the proceedings of such taking shall be con-  
6 ducted in the same manner as though such land were  
7 in Cambridge, and all persons and corporations suf-  
8 fering damage in their property by reason of such  
9 taking shall have the same rights and remedies for  
10 ascertaining and recovering the amount of such dam-  
11 age as in the case of land taken for sewers in Cam-  
12 bridge.

1     SECT. 3. If at any time after the construction of  
2 the works required by the first section hereof, and  
3 actual trial thereof, that method of disposing of said

4 sewage be deemed by the state board of health,  
5 lunacy, and charity, after such notice and hearing as  
6 said board may order, impracticable without great  
7 and unreasonable expense, then the obligation  
8 imposed by the first section hereof shall be void.

1     SECT. 4. After the expiration of five years from  
2 the first day of September next, the city of Cam-  
3 bridge may at its option continue or discontinue the  
4 works prescribed in the first section hereof; said  
5 continuance, however, to be for a term of five years  
6 and no more, except with the consent of the city of  
7 Somerville, and subject to the same conditions as the  
8 original term.

1     SECT. 5. So long as the city of Cambridge dis-  
2 charges its sewage into the sewer of Somerville in  
3 the manner hereinbefore prescribed, it shall pay  
4 annually to the city of Somerville, upon the first day  
5 of September (the first payment to be made on the  
6 first day of September, A.D., one thousand eight  
7 hundred and eighty-two), the sum of one thousand  
8 dollars, and in the same ratio for any part of a year,  
9 and during the same period shall dispose of the  
10 sewage and storm water of the city of Somerville,  
11 emptying into any sewer of Cambridge, under the  
12 provisions of this act, in the same manner that it  
13 disposes of its own sewage and storm water in the  
14 same sewer, and without any cost or charge to the  
15 city of Somerville.

1     SECT. 6. The city of Somerville, for the purposes  
2 of draining the following described territory situated

3 in Somerville, — namely: commencing at a point on  
4 the boundary line between Cambridge and Somer-  
5 ville distant one hundred sixty-eight feet south-  
6 easterly from a stone bound marking said boundary  
7 line, and numbered twenty-two; thence running  
8 southeastwardly by said boundary line to the south-  
9 easterly line of Meacham street; thence turning and  
10 running northeastwardly by said southeasterly line  
11 of Meacham street to the Middlesex Central Railroad;  
12 thence continuing in the same direction and crossing  
13 said railroad to a point one hundred feet southwest-  
14 erly from the southwesterly line of Holland street;  
15 thence turning and running northwestwardly by a  
16 line parallel with said southwesterly line of Holland  
17 street, and one hundred feet distant therefrom, to  
18 the southeasterly line of Elmwood street; thence  
19 turning and running southwestwardly by said south-  
20 easterly line of Elmwood street to a point in line  
21 with the prolongation of the southwesterly line of  
22 Mead street; thence turning and running north-  
23 westwardly by said southwesterly line of Mead  
24 street prolonged, crossing Elmwood street and  
25 Cameron avenue, and by the said southwesterly  
26 line of Mead street to the northwesterly line of  
27 Moore street; thence in the same direction cross-  
28 ing Newbury street and Clarendon avenue to the  
29 land owned by the city of Cambridge; thence south-  
30 westwardly by said land of the city of Cambridge,  
31 to the point of beginning, — may connect any sewer  
32 upon such territory with any sewer in Cambridge;  
33 and for that purpose the city council of Somerville  
34 shall have the same right to take private land in

35 Cambridge as it now has to take land for sewers in  
36 Somerville, and all the proceedings of such taking  
37 shall be conducted in the same manner as though  
38 such land were in Somerville, and all persons or  
39 corporations suffering damage in their property by  
40 reason of such taking shall have the same rights  
41 and remedies for ascertaining and recovering the  
42 amount of such damage as in the case of land taken  
43 for sewers in Somerville.

1     SECT. 7. Each of said cities may, for the pur-  
2 poses of this act, carry its pipes and drains under  
3 any street, railroad, highway, or other way, in such  
4 a manner as not to obstruct the same, and may enter  
5 upon and dig up such street, railroad, highway, or  
6 other way, for the purpose of laying, maintaining,  
7 and repairing any such pipes and drains, and may do  
8 any other things necessary or proper in executing  
9 the purposes of this act; but whenever either of  
10 said cities enters upon or digs up for such purposes  
11 any road, street, or way which is outside its own  
12 territorial limits, it shall be subject to such reason-  
13 able regulations as may be prescribed by the mayor  
14 and aldermen of the city wherein such street or way  
15 may be located, and shall restore said road, street,  
16 or way to as good order and condition as it was in  
17 before such digging was commenced, and shall per-  
18 form the work in such manner and with such  
19 care as not to render any road, street, or way in  
20 which such pipes are laid unsafe, or unnecessarily  
21 inconvenient to the public travel thereon, and shall  
22 at all times indemnify and save harmless any city

23 which is liable to keep in repair any road, street, or  
24 way aforesaid, against all damages which may be  
25 recovered against it, and shall reimburse to it all  
26 expense which it shall reasonably incur by reason of  
27 any defect or want of repair in such road, street, or  
28 way caused by the maintenance, repair, or replacing  
29 of said pipes, or by reason of any injury to persons  
30 or property caused by any defect or want of repair  
31 in any such pipes ; *provided*, that such city has  
32 notice of any claim or suit for such damage or  
33 injury, and an opportunity to assume the defence  
34 thereof. Either city shall have the right to use,  
35 without compensation, any sewer built under this  
36 act within its own territorial limits.

1     SECT. 8. Whenever the city of Cambridge law-  
2 fully ceases to discharge sewage into the sewer of  
3 the city of Somerville in the manner prescribed by  
4 the first section hereof, the city of Somerville shall  
5 cease to discharge its sewers into the sewers of the  
6 city of Cambridge, as provided in the sixth section  
7 hereof.

1     SECT. 9. No person or corporation, public or pri-  
2 vate, shall, after the first day of September next,  
3 discharge or cause to be discharged either directly  
4 or indirectly into Alewife Brook any drainage, refuse,  
5 or polluting matter of such quality and quantity as  
6 either by itself or in connection with other matter  
7 shall corrupt the water of said brook, or tend to  
8 make the brook a nuisance deleterious to public  
9 health ; *provided, however*, that this prohibition shall

10 not extend to the sewage from the sewers named in  
11 the first section hereof, in case the method therein  
12 prescribed for disposing of the same be deemed im-  
13 practicable as aforesaid by the state board of health,  
14 lunacy, and charity; but this proviso shall not be  
15 construed to give to the city of Cambridge any right  
16 in addition to what it has at the date of the passage  
17 of this act, if any, to drain into said brook.

1     SECT. 10. Nothing herein contained shall be  
2 construed to prevent the city of Cambridge from  
3 discharging the storm water of its sewers, including  
4 those named in the first section hereof, into said  
5 brook, nor to destroy or impair prescriptive rights  
6 of drainage or discharge to the extent to which they  
7 lawfully exist at the passage of this act; and noth-  
8 ing in this act contained shall be construed to autho-  
9 rize the pollution of the waters of said brook in any  
10 manner now contrary to law.

1     SECT. 11. Whenever a violation of any of the  
2 provisions of this act affecting the public health or  
3 the water supply of any city is committed, the state  
4 board of health, lunacy, and charity may, if in its  
5 judgment the public health requires, order any per-  
6 son or corporation, public or private, to cease and  
7 desist from such violation, and to remedy the pollu-  
8 tion or to cleanse or purify the polluting substances  
9 in such a manner and to such a degree that they  
10 shall be no longer deleterious to the public health  
11 before being cast or allowed to flow into said brook;  
12 *provided*, that before making such order the said

13 board shall assign a time and place for hearing all  
14 parties interested, and shall give such parties an  
15 opportunity of being heard, and the orders herein-  
16 before provided shall not be issued until after such  
17 notice and hearing; and *provided*, also, that upon  
18 the application of any city to said board, alleging the  
19 violation of any of the provisions of this act, and  
20 the pollution of its water supply thereby, said board  
21 shall grant a hearing, upon due notification to all  
22 parties interested, and upon proof of such violation  
23 shall issue the order or orders already mentioned in  
24 this act.

1    SECT. 12. The supreme judicial court or any one  
2 of its justices, in term time or vacation, shall have  
3 power to issue an injunction to enforce any such  
4 order.

1    SECT. 13. Every such order of the board of  
2 health, lunacy, and charity shall be made in writing,  
3 and served by any person competent to serve a  
4 notice in a civil suit, personally, upon the person  
5 found guilty of violation as aforesaid, or his author-  
6 ized agent, or a copy of the order may be left at the  
7 last and usual place of abode of such person, or his  
8 agent, if he has any such place of abode within the  
9 state known to the officer. If the residence of the  
10 owner or agent is unknown to the officer, or without  
11 the state, the order may be served by publication in  
12 one or more newspapers, in such manner and for  
13 such time as said board may order. Any party ag-  
14 grieved by any such order shall have the right of

15 appeal to any jury, and be subject to the fifty-sixth  
16 and fifty-eighth sections of the twenty-sixth chapter  
17 of the General Statutes, and the two hundred and  
18 sixty-third chapter of the laws of the year eighteen  
19 hundred and sixty-five. During the pendency of  
20 the appeal, the pollution against which the order  
21 has issued shall not be continued contrary to the  
22 order, and upon any violation of the same the  
23 appeal shall be forthwith dismissed.

1     SECT. 14. Nothing hereinbefore contained shall  
2 be construed to exclude the jurisdiction of the  
3 supreme judicial court sitting in equity according to  
4 the usual course and practice of such court.

1     SECT. 15. This act shall be void unless accepted  
2 by the city council of each of said cities within thirty  
3 days from the date of the passage hereof.



