

SENATE No. 219.

[Senate Bill No. 214 as passed to be engrossed by the Senate.]

Commonwealth of Massachusetts.

In the Year One Thousand Eight Hundred and Ninety-seven.

AN ACT

To supply the Town of Billerica 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 SECTION 1. The town of Billerica may supply
2 itself and its inhabitants with water for the extin-
3 guishment of fires and for domestic and other
4 purposes ; may establish fountains and hydrants,
5 relocate or discontinue the same ; and may regu-
6 late the use of such water and fix and collect
7 rates to be paid for the use of the same: *provided,*
8 that no source of water supply shall be taken
9 under this act for domestic purposes without the
10 recommendation and advice of the state board of
11 health.

1 SECT. 2. Said town, for the purposes afore-
2 said, may take by purchase or otherwise and hold
3 the waters, or so much thereof as may be neces-
4 sary, of any ponds, springs, streams or wells, or
5 any filter galleries or driven or dug wells that
6 may be constructed upon the shore of any pond
7 or near any spring or streams within the limits
8 of the said town of Billerica, or the water of
9 Concord river or any other water sources within
10 the limits of the said town, with the water rights
11 connected therewith in any case. Said town
12 may erect and construct on the lands taken or
13 held under the authority hereof such wells, filter
14 galleries, dams, buildings, fixtures, reservoirs,
15 standpipes and other structures, and may make
16 such excavations and procure and operate such
17 machinery therefor, and do such other things as
18 may be necessary for providing and maintaining
19 complete and effective water works ; and for that
20 purpose may construct, lay and maintain aque-
21 ducts, conduits, pipes and other works under and
22 over any lands, water courses, roads, railroads or
23 other ways, and along any street, highway or other
24 way in the town of Billerica, in such manner as
25 shall not unnecessarily obstruct the same ; and
26 for the purpose of constructing, laying, maintain-
27 ing and repairing such aqueducts, conduits, pipes
28 and other works and for all other purposes of this
29 act said town may dig up, raise and embank any
30 such land, highways or any other ways in such
31 manner as to cause least hindrance to public
32 travel.

1 SECT. 3. Said town of Billerica shall be liable
2 to pay all damages to property sustained by any
3 persons or corporations by the taking of any
4 land, right of way, water, water source, water
5 right or easement by said town, or by the con-
6 struction of any aqueduct, reservoirs or other
7 works for the purposes aforesaid or by any other
8 thing done by said town under the authority of
9 this act. Said town shall, within ninety days
10 after the taking of any lands, water sources, water
11 rights, rights of way or easements as aforesaid,
12 otherwise than by purchase or agreement, file and
13 cause to be recorded in the registry of deeds for
14 the northern district of the county of Middlesex a
15 description thereof sufficiently accurate for identi-
16 fication, with a statement of the purpose for which
17 the same were taken, signed by a majority of the
18 board of water commissioners hereinafter pro-
19 vided for; and upon such recording the title in
20 the lands, water sources, water rights, rights of
21 way or easements described in such statement
22 shall vest in said town. Said board of water
23 commissioners at the time of said taking shall
24 notify in writing the owners of the property and
25 rights so taken. Any person or corporation
26 entitled to damages as aforesaid under this act,
27 who fails to agree with said town as to the amount
28 of damages sustained, may have the damages
29 assessed and determined in the manner provided
30 by law when land is taken for the laying out of
31 highways, by making application at any time
32 within the period of two years from the taking of

33 such land or other property or the doing of any
34 injury under the authority of this act; but no
35 application shall be made after the expiration of
36 said two years. No petition for the assessment
37 of damages shall be made for the taking of any
38 water, water right or water source, or for any in-
39 jury thereto, until the water is actually withdrawn
40 or diverted by said town under the authority of
41 this act or after two years from the date of such
42 actual withdrawal or diversion. In case of a
43 petition for the assessment of damages or for a
44 jury said town may at any time file in the office
45 of the clerk of said court an offer in writing to
46 pay the petitioner a sum therein specified as dam-
47 ages, and if said petitioner does not accept the
48 same within ten days after notice of such offer,
49 and does not finally recover a sum greater than
50 that offered, not including interest from the date
51 of offer on the sum so recovered, the town shall
52 recover costs from the date of said notice, and the
53 petitioner, if he recovers damages, shall be en-
54 titled to costs only to said date.

1 SECT. 4. For the purpose of paying all ex-
2 penses and liabilities incurred under the pro-
3 visions of this act, said town may issue bonds,
4 notes or scrip, from time to time, signed by the
5 treasurer of the town and countersigned by the
6 board of water commissioners, to be denominated
7 on the face thereof Billerica Water Loan, to
8 an amount not exceeding ninety thousand dollars,
9 payable at periods not exceeding forty years

10 from date of issue and bearing interest payable
11 semi-annually at a rate not exceeding six per
12 centum per annum. And said town may sell
13 said securities at public or private sale, at not
14 less than par, or pledge the same for money
15 borrowed for the purposes of this act upon such
16 terms and conditions as it may deem proper.
17 Said town shall pay the interest upon said loan
18 as it accrues, and shall provide for the payment
19 of said principal at maturity by establishing at
20 the time of contracting said debt a sinking fund,
21 or by providing for the payment of said debt
22 by such proportionate annual payments as will
23 extinguish the same within the time prescribed
24 by this act. In case said town shall decide
25 to establish a sinking fund it shall contribute
26 thereto annually a sum sufficient with its accu-
27 mulations to pay the principal of said loan
28 at maturity, and said sinking fund shall re-
29 main inviolate and pledged to the payment of
30 said debt and shall be used for no other purpose.
31 If said town shall decide to pay the principal of
32 said loan by instalments, such amounts as may be
33 necessary to make such payments shall without
34 further vote of said town be raised annually by
35 taxation in the same way as money is raised for
36 other town expenses.

1 SECT. 5. The said town shall raise annually by
2 taxation a sum which with the income derived
3 from the water rates will be sufficient to pay the
4 current annual expenses of operating its water

5 works and the interest as it accrues on the bonds,
6 notes and scrip issued as aforesaid by said town,
7 and to make such contributions to the sinking
8 fund and payments on the principal as may be re-
9 quired under the provisions of this act.

1 SECT. 6. 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
4 or other property owned, held or used by said town
5 under the authority and for the purposes of this
6 act, shall forfeit and pay to said town three times
7 the amount of damages assessed therefor, to be
8 recovered in an action of tort; and upon convic-
9 tion of either of the above wilful or wanton acts
10 shall be punished by a fine not exceeding three
11 hundred dollars or by imprisonment not exceed-
12 ing one year.

1 SECT. 7. The said town shall, after the ac-
2 ceptance of this act, at a legal meeting called for
3 the purpose, elect by ballot three persons to hold
4 office, one until the expiration of three years, one
5 until the expiration of two years and one until the
6 expiration of one year from the next succeeding
7 annual town meeting, to constitute a board of
8 water commissioners; and at each annual town
9 meeting thereafter one such commissioner shall
10 be elected by ballot for the term of three years.
11 All the authority granted to the town by this act
12 and not otherwise specially provided for shall be
13 vested in said board of water commissioners, who

14 shall be subject, however, to such instructions,
15 rules and regulations as said town may impose by
16 its vote; the said commissioners shall be trustees
17 of the sinking fund herein provided for and a
18 majority of said commissioners shall constitute a
19 quorum for the transaction of business relative
20 both to the water works and to the sinking fund.
21 Any vacancy occurring in said board from any
22 cause may be filled for the remainder of the un-
23 expired term by said town at any legal town
24 meeting called for the purpose.

1 SECT. 8. This act shall take effect upon its
2 acceptance by a two-thirds vote of the voters of
3 said town present and voting thereon at a legal
4 town meeting called for the purpose within six
5 months from its passage.

SENATE, May 27, 1897.

Passed to be engrossed.

Sent down for concurrence.

HENRY D. COOLIDGE, *Clerk.*

