

# HOUSE . . . . . No. 1391

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Bill accompanying the petition of Alvin A. Vinal for legislation to incorporate the Marshfield Water Company. Water Supply. March 8.

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## Commonwealth of Massachusetts.

In the Year One Thousand Nine Hundred and Nine.

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### 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. Alvin A. Vinal and Joseph W. Vinal,  
2 their associates and successors, are hereby made a corpo-  
3 ration by the name of the Marshfield Water Company for  
4 the purpose of supplying the inhabitants of the town of  
5 Marshfield, or any part thereof, not now supplied by the  
6 Brant Rock Water Company, with water for domestic,  
7 manufacturing and other purposes, including the extin-  
8 guishment of fires; with all the powers and privileges  
9 and subject to all the duties, restrictions and liabilities set  
10 forth in all general laws now or hereafter in force appli-  
11 cable to such corporations.

1 SECTION 2. Said corporation, for the purposes afore-  
2 said, may lease, take or acquire by purchase or otherwise,  
3 and hold and convey the waters, or so much thereof as  
4 may be necessary, of any ponds, springs, streams, wells or  
5 any filter galleries or wells that may be constructed upon  
6 the shore of any pond, or near any spring or stream within  
7 the limits of said town, together with any water rights  
8 connected therewith, and also all lands, rights of way and  
9 easements necessary for holding and preserving such  
10 water and for conveying the same to any part of said  
11 town; and may erect on the land thus taken or held proper  
12 dams, buildings, standpipes, fixtures and other structures,  
13 and may make excavations, procure and operate machin-  
14 ery, and provide such other means and appliances, and  
15 may do such other things, as may be necessary for the es-  
16 tablishment and maintenance of complete and effective  
17 water works: *provided, however,* that no source of water  
18 supply for domestic purposes or lands necessary for pre-  
19 serving the quality of such water shall be acquired under  
20 this act without the consent of the state board of health,  
21 and that the location of all dams, reservoirs, wells or other  
22 works for collecting or storing water shall be subject to  
23 the approval of said board.

1 SECTION 3. Said company, for the purposes aforesaid,  
2 may construct, lay and maintain aqueducts, conduits,  
3 pipes and other works, under or over any land, water  
4 courses, canals, dams, railroads, railways and public or  
5 other ways, and along any highway or other way in the  
6 town of Marshfield, in such manner as not unnecessarily  
7 to obstruct the same; and for the purpose of constructing,  
8 laying, maintaining, and repairing such aqueducts, con-  
9 duits, pipes and other works, and for all purposes of this  
10 act, said company may dig up, raise and embank any such

11 lands, highways or other ways in such manner as to cause  
12 the least hindrance to public travel; but all things done  
13 upon any public ways shall be subject to the direction and  
14 approval of the selectmen of said town.

1 SECTION 4. Said corporation shall, within ninety days  
2 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  
6 for identification, with a statement of the purpose for  
7 which the same were taken, signed by the president of  
8 the corporation. The recording shall operate as a taking  
9 of the real estate and rights and easements therein de-  
10 scribed.

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

20 determine what amount or quantity of water it proposes  
21 to take and appropriate under this act; in which case  
22 any damages caused by such taking shall be based upon  
23 such amount or quantity, until the same shall be in-  
24 creased by vote or otherwise, and in such event said cor-  
25 poration shall be further liable only for the additional  
26 damages caused by such additional taking.

1 SECTION 6. Said corporation may distribute water  
2 through the town of Marshfield or any part thereof, may  
3 regulate the use of the same and may establish and fix  
4 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 corporation,  
8 to supply water for the extinguishment of fires or for  
9 other purposes, as may be agreed upon.

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

1 SECTION 8. Immediately after the payment of the  
2 capital stock of said company a certificate of that fact  
3 and of the manner in which the same has been paid in,  
4 and, at the time of making the certificate, has been in-

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

1 SECTION 9. Said corporation may issue bonds and may  
2 secure the same by a mortgage of its franchise and other  
3 property to an amount not exceeding its capital stock  
4 actually paid in. The proceeds of all bonds so issued shall  
5 be expended only in the extension of the works of the com-  
6 pany and in payment of expenditures actually made in  
7 the construction of the works, over and above the amount  
8 of the capital stock actually paid in.

1 SECTION 10. The 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 requi-  
5 site for the purposes for which such issue of stock or bonds  
6 is authorized. His decision approving such issue shall  
7 specify the respective amounts of stock and bonds author-  
8 ized to be issued, and the purposes to which the proceeds  
9 thereof are to be applied. A certificate setting forth his  
10 decision shall be filed in the office of the secretary of the

11 commonwealth before the certificates of stock or the bonds  
12 are issued, and the proceeds of such stock or bonds shall  
13 not be applied to any purpose not specified in such de-  
14 cision.

1 SECTION 11. 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 of  
8 the above wilful or wanton acts shall be punished by a  
9 fine not exceeding three hundred dollars or by imprison-  
10 ment in jail for a term not exceeding one year.

1 SECTION 12. 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 of  
4 the right of eminent domain, the franchise, property and  
5 all the rights and privileges of said corporation, on pay-  
6 ment to said corporation of the actual cost of its franchise,  
7 works and property of any kind held under the provisions  
8 of this act; and unless the dividends earned and declared  
9 by said company on its stock shall have been equal to or in  
10 excess of five per cent per annum, there shall be added to  
11 the cost of the works such a sum as would make the net  
12 return to the stockholders five per cent per annum on the  
13 investment. The town, on taking as herein provided the  
14 property of said corporation, shall assume all of its out-  
15 standing obligations incurred in the construction or im-  
16 provement of the property, including bonds secured by  
17 mortgage issued under authority of this act, and the  
18 amount thus assumed shall be deducted from the total

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

1 SECTION 13. Said town may, for the purpose of paying  
2 the cost of said franchise and corporate property, and the  
3 necessary expenses and liabilities incurred under the pro-  
4 visions of this act, issue from time to time bonds, notes

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

1 SECTION 14. Said town shall, after purchasing or  
2 taking the said franchise and corporate property, as pro-  
3 vided in this act, at a legal meeting called for the pur-

4 pose elect by ballot three persons to hold office, one until  
5 the expiration of three years, one until the expiration of  
6 two years and one until the expiration of one year from  
7 the next succeeding annual town meeting, 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.

1 SECTION 15. All the authority granted to the said  
2 said town by this act and not otherwise specifically pro-  
3 vided for shall be vested in said water commissioners,  
4 who shall be subject however to such instructions, rules  
5 and regulations as said town may impose by its vote.  
6 A majority of said commissioners shall constitute a  
7 quorum for the transaction of business. Any vacancy  
8 occurring in said board for any cause may be filled for  
9 the remainder of the unexpired term by said town at any  
10 legal town meeting called for the purpose.

1 SECTION 16. Any fire district hereafter established  
2 within the town of Marshfield for the purpose of supply-  
3 ing the inhabitants thereof with water for the extinguish-  
4 ment of fires and for domestic, manufacturing and other  
5 purposes, shall have all the rights and privileges herein  
6 granted to, and be subject to all the obligations, duties  
7 and liabilities herein imposed upon, said town.

1 SECTION 17. 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.

