

HOUSE No. 313.

Commonwealth of Massachusetts.

HOUSE OF REPRESENTATIVES, April 3, 1889.

The Committee on Water Supply, to whom was referred the petition of Marshall L. Adams and others of Provincetown, that said town be authorized to construct and maintain a system of water supply, and to issue bonds or notes to meet the payment thereof, report the accompanying Bill.

For the Committee,

HENRY H. JOHNSON.

Commonwealth of Massachusetts.

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

AN ACT

To supply the Town of Provincetown 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 Provincetown may
2 supply itself and its inhabitants with water for the
3 extinguishment of fires and for domestic and
4 other purposes; may establish fountains and
5 hydrants, relocate or discontinue the same, may
6 regulate the use of such water, and fix and col-
7 lect rates to be paid for the use of the same.

1 SECT. 2. The said town, for the purposes
2 aforesaid, may take by purchase or otherwise,
3 and hold the water of any ponds or water sources
4 within the limits of said town of Provincetown,
5 together with any water rights connected there-

6 with, and also all lands, rights of way and ease-
7 ments necessary for holding and preserving such
8 water and for conveying the same to any part of
9 said town of Provincetown; and may erect on the
10 land thus taken or held proper buildings, dikes,
11 fixtures and other structures, and may make ex-
12 cavations, procure and operate machinery, and
13 provide such other means and appliances as may
14 be necessary for the establishment and mainte-
15 nance of complete and effective water works, and
16 may construct and lay down conduits, pipes and
17 other works, under or over any lands, water
18 courses, railroads, or public or private ways, and
19 along any such way, in such manner as not un-
20 necessarily to obstruct the same; and for the pur-
21 pose of constructing, maintaining and repairing
22 such conduits, pipes and other works, and for all
23 proper purposes of this act, said town may dig up
24 any such lands, and, under the direction of the
25 board of selectmen of the town, may enter upon
26 and dig up any such ways in such manner as to
27 cause the least hindrance to public travel on such
28 ways.

1 SECT. 3. The said town shall within ninety
2 days after the taking of any lands, rights of way,
3 water rights, water sources or easements as
4 aforesaid, otherwise than by purchase, file and
5 cause to be recorded in the registry of deeds for
6 the county of Barnstable a description thereof
7 sufficiently accurate for identification, with a
8 statement of the purpose for which the same was

9 taken, signed by the water commissioners herein-
10 after provided for.

1 SECT. 4. The said town shall pay all damages
2 sustained by any person or corporation in prop-
3 erty by the taking of any land, right of way,
4 water, water source, water right or easement, or by
5 any other things done by said town under the
6 authority of this act. Any person or corporation
7 sustaining damages as aforesaid under this act,
8 who fails to agree with said town as to the
9 amount of damages sustained, may have the dam-
10 ages assessed and determined in the manner pro-
11 vided by law when land is taken for the laying
12 out of highways, on application at any time
13 within the period of three years from the taking
14 of such land or other property, or the doing of
15 other injury, under the authority of this act; but
16 no such application shall be made after the
17 expiration of said three years. No application
18 for assessment of damages shall be made for the
19 taking of any water, water right, or for any
20 injury thereto, until the water is actually with-
21 drawn or diverted by said town under the
22 authority of this act.

1 SECT. 5. The said town may, for the purpose
2 of paying the necessary expenses and liabilities
3 incurred under the provisions of this act, issue
4 from time to time bonds, notes or scrip, to an
5 amount not exceeding in the aggregate sixty-
6 five thousand dollars; such bonds, notes and

7 scrip shall bear on the face the words Province-
8 town Water Loan, shall be payable at the expira-
9 tion of periods not exceeding thirty years from
10 date of issue, shall bear interest payable semi-
11 annually at a rate not exceeding five per centum
12 per annum, and shall be signed by the treasurer
13 of the town and be countersigned by the water
14 commissioners hereinafter provided for. The
15 said town may sell such securities at public or
16 private sale, or pledge the same for money bor-
17 rowed for the purposes of this act, upon such
18 terms and conditions as it may deem proper:
19 *provided*, that such securities shall not be sold
20 or pledged for less than the par value thereof.
21 The said town, unless it avails itself of the pro-
22 visions of section six, shall provide, at the time
23 of contracting said loan, for the establishment
24 of a sinking fund, and shall annually contribute
25 to such fund a sum sufficient, with the accumu-
26 lations thereof, to pay the principal of said loan
27 at maturity. The said sinking fund shall remain
28 inviolate and pledged to the payment of said
29 loan, and shall be used for no other purpose.

1 SECT. 6. The said town instead of establish-
2 ing a sinking fund may, at the time of authoriz-
3 ing said loan, provide for the payment thereof
4 in such annual proportionate payments as will
5 extinguish the same within the time prescribed in
6 this act; and when such vote has been passed, the
7 amount required thereby shall, without further
8 vote, be assessed by the assessors of said town in

9 each year thereafter, until the debt incurred by
10 said loan shall be extinguished, in the same
11 manner as other taxes are assessed under the
12 provisions of section thirty-four of chapter
13 eleven of the Public Statutes.

1 SECT. 7. The return required by section nine-
2 ty-one of chapter eleven of the Public Statutes
3 shall state the amount of any sinking fund estab-
4 lished under this act, and if none is established,
5 whether action has been taken in accordance
6 with the provisions of the preceding section, and
7 the amounts raised and applied thereunder for
8 the current year.

1 SECT. 8. The said town shall raise annually
2 by 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
6 bonds, notes and scrip issued as aforesaid by said
7 town, and to make such contributions to the sink-
8 ing fund and payments on the principal as may
9 be required under the provisions of this act.

1 SECT. 9. Whoever wilfully or wantonly cor-
2 rupts, pollutes or diverts any of the waters taken
3 or held under this act, or injures any structure,
4 work or other property owned, held or used by
5 said town under the authority and for the pur-
6 poses of this act, shall forfeit and pay to said
7 town three times the amount of damages assessed

8 therefor, to be recovered in an action of tort;
9 and upon conviction of either of the above wilful
10 or wanton acts shall be punished by fine not
11 exceeding three hundred dollars or by imprison-
12 ment not exceeding one year.

1 SECT. 10. The said town shall, after its accep-
2 tance of this act, at a legal meeting called for the
3 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 said town by
12 this act, and not otherwise specifically provided
13 for, shall be vested in said board of water com-
14 missioners, who shall be subject, however, to such
15 instructions, rules and regulations as said town
16 may impose by its vote; the said commissioners
17 shall be trustees of the sinking fund herein pro-
18 vided for, and a majority of said commissioners
19 shall constitute a quorum for the transaction of
20 business relative both to the water works and to
21 the sinking fund. Any vacancy occurring in
22 said board from any cause may be filled for the
23 remainder of the unexpired term by said town
24 at any legal town meeting called for the pur-
25 pose.

1 SECT. 11. 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 three
5 years from its passage; but the number of meet-
6 ings so called in any year shall not exceed two.