

**Chap. 307** AN ACT TO SUPPLY THE TOWN OF WOBURN WITH PURE WATER.

*Be it enacted, &c., as follows :*

Woburn to be supplied with pure water from Horn Pond.

SECTION 1. The town of Woburn, for the purpose of supplying the inhabitants thereof with pure water, is hereby authorized to take, hold and convey to, into and through said town, the waters of Horn Pond, so called, in Woburn, or the waters of any other pond in Woburn, and the waters which flow into the same, and any water-rights connected therewith ; and may take and hold, by purchase or otherwise, such land on and around the margin of said ponds, not exceeding five rods in width, as may be necessary for the preservation and purity of said waters, and may also take and hold in like manner, such lands in Woburn and in the town of Winchester, as may be necessary for erecting and maintaining dams and reservoirs, and for laying and maintaining conduits, pipes, drains and other works for collecting, conducting and distributing said waters through said town of Woburn. The town of Woburn shall within sixty days from the time of taking any land as aforesaid, file in the registry of deeds for the southern district of Middlesex county, a description of land so taken, sufficiently accurate for identification, and state the purpose for which it is taken.

May take and hold lands in Woburn and Winchester.

May build aqueducts, erect dams, &c.

SECTION 2. Said town of Woburn may build aqueducts and maintain the same by any works suitable therefor ; may erect and maintain dams ; may make reservoirs and hydrants, and may distribute the water throughout the town of Woburn, by laying down pipes, and may establish the rent therefor. Said town may also, for the purposes aforesaid, carry its pipes and drains over or under any water-course, street, railroad, highway or other way, in such manner as not to obstruct the same ; and may enter upon and dig up any road in such manner as to cause the least hindrance to the travel thereon.

Liability for damage.

SECTION 3. Said town of Woburn shall be liable to pay all damages that shall be sustained by any persons in their property by the taking of any land, water or water-rights, or by the constructing of any aqueducts, reservoirs or other works for the purposes aforesaid. If any person who shall sustain damages as aforesaid cannot agree with said town upon the amount thereof, he may have them assessed in the same manner as is provided by law with respect to land taken for highways.

No application to be made for assessment of damages until water is actually taken by the town.

SECTION 4. No application shall be made to the county commissioners for the assessment of damages for the taking of any water-rights, until the water is actually withdrawn or diverted by said town. Any person whose water-rights are

thus taken or affected, may apply as aforesaid, at any time within one year from the time when the water is actually withdrawn or diverted.

SECTION 5. Three commissioners chosen by the town shall execute, superintend and direct the performance of all the works, matters and things mentioned in the preceding sections, and not otherwise herein specifically provided for, subject, however, to such rules, regulations and by-laws as the said town may ordain or establish, not repugnant to the provisions of law. They shall respectively hold office for the term of three years next after their election, but may however be removed by vote of the town. Vacancies in the board of commissioners may be filled by an election of another commissioner for the unexpired term. A majority of said board shall be a quorum for the exercise of the powers, and the performance of the duties of said office; they shall once in six months, and whenever required by the town, render a particular report in writing of all their doings, and of the condition and progress of said works. The town shall fix the salaries of said commissioners before their election, which shall not be reduced during their continuance in office.

Commissioners to be chosen to have charge of works, &c.

Term of office. Vacancies in board.

Salaries to be fixed before election, and not to be reduced during continuance in office. "Woburn Water Scrip" may be issued not exceeding \$200,000.

SECTION 6. For the purpose of defraying the cost and expenses which may be incurred under the provisions of this act, the town of Woburn, through its treasurer, shall have authority to issue from time to time, notes, scrip or certificates of debt, to be denominated on the face thereof, "Woburn Water Scrip," to an amount not exceeding two hundred thousand dollars, bearing interest at a rate not exceeding seven per centum per annum, payable semi-annually; the principal shall be payable at periods not more than twenty years from the issuing of said notes, scrip or certificates respectively. Said treasurer under the authority of said town of Woburn, may sell the same or any part thereof, from time to time, or pledge the same for money borrowed for the purposes aforesaid on such terms and conditions as he may deem proper. Said town of Woburn is further authorized to make appropriations and assess from time to time such amounts, not exceeding in one year the sum of ten thousand dollars, towards payment of the principal of the money so borrowed, and also a sum sufficient to pay the interest thereof, in the same manner as money is assessed and appropriated for other town purposes.

SECTION 7. The town of Woburn shall establish or may authorize the said board of commissioners or the board of selectmen of said town to establish such price or rent for the

Price of water to be so fixed as to pay interest and one per

- cent. of principal of water loan. use of the water as to provide annually, if practicable, from the net income and receipts therefor, for the payment of the interest, and not less than one per centum of the principal of the water loan, and shall determine the manner of collecting it.
- Sinking fund. The net surplus income and receipts, after deducting all expenses and charges of distribution, shall be set apart as a sinking fund, and applied solely to the payment of the principal of said loan, until the same is fully paid and discharged.
- Occupant of tenement to be liable for use of water. SECTION 8. The occupant of any tenement shall be liable for the payment of the rent for the use of the water in such tenement; and the owner shall also be liable, if on being notified of such use, he does not object thereto.
- Penalty for unlawfully using or maliciously diverting water or rendering the same impure. SECTION 9. If any person shall use any of said water either within or without said town of Woburn, without the consent of said town, or shall wantonly or maliciously divert the water or any part thereof, of any of the ponds, streams, springs, or sources of water, taken or held by said town of Woburn, pursuant to the provisions of this act, or corrupts the same, or renders it impure, or destroys or injures any dam, aqueduct, pipe, conduit, hydrant, machinery or other works or property held, owned, or used by said town of Woburn under the authority of and for the purposes of this act, he shall forfeit and pay to said town three times the amount of damages assessed therefor, to be recovered in an action of tort; and on conviction of either of the wanton or malicious acts aforesaid may be also punished by fine not exceeding three hundred dollars, or by imprisonment in jail not exceeding one year: *provided*, that nothing herein contained shall be construed to prevent persons from cutting and securing ice on said ponds in the manner heretofore practised.
- Proviso. SECTION 10. The inhabitants of the town of Winchester may take water from the pipes or reservoir of said town of Woburn under the provisions of chapter ninety-three of the acts of the year eighteen hundred and seventy, and in such case shall pay proper rents and rates therefor; and in case of a failure to agree upon proper rents and rates, the same shall be fixed by one or more commissioners, to be appointed by the supreme judicial court, upon the application of either party; the expense of such proceeding to be equally shared by the two towns. If the said town of Winchester shall vote to take water as aforesaid, then the said town of Winchester shall have all the power herein granted to the town of Woburn, to lay and maintain conduits, pipes and drains, to make reservoirs and hydrants, and to enter upon and dig up roads in said town of Winchester for conducting and distributing said waters through the town of Winchester.
- Inhabitants of Winchester may take the water upon payment of proper rates.

SECTION 11. The city of Charlestown and the town of Woburn, or either of them, shall have power to erect and maintain a dam at or near the outlet of Horn Pond, and raise the waters of that pond as high as the party erecting such dam may judge necessary for the purposes of this act, and in order to furnish a more permanent supply of water for the purposes set forth in chapter one hundred and five of the acts of the year eighteen hundred and sixty-one, and of the acts in addition thereto; the waters of said dam, however, not to exceed a level of six feet above the present high-water mark of said pond. All damages sustained by the erection of said dam are to be recovered against the town or city erecting said dam. The town of Woburn and the city of Charlestown are authorized to enter into any agreement, to divide between them, in such proportion as may be agreed upon, the cost of erecting and maintaining said dam and the damages occasioned thereby: *provided, however*, if said city of Charlestown and said town of Woburn enter into such agreement, said damages may be recovered either against said city or said town, or against both of them, in such manner as is provided in this act, or in chapter one hundred and five of the acts of the year eighteen hundred and sixty-one, and in the several acts passed in addition thereto. And *provided, further*, that if such dam shall be wholly erected by said town, or said city, the town or city so erecting the same shall have the exclusive regulation of said dam and of the raising and lowering of the waters controlled thereby, and shall also be entitled to receive a reasonable compensation from the other town or city for any benefit derived or to be derived thereby; and in case they cannot agree as to the amount of such compensation the same may be determined by a commissioner or commissioners to be appointed by the supreme judicial court sitting in equity, and their award may be rejected or accepted and enforced by said court.

Dam may be erected near outlet of Horn Pond.

Damages.

Woburn and Charlestown may agree to divide cost of dam.

Provisos.

SECTION 12. The towns of Woburn and Winchester shall not permit any of the waters which shall be supplied for domestic, manufacturing or other purposes under this act, to run or be returned into Horn Pond, Wedge Pond, Abajonah River, Mystic Lake, or into any of the tributaries of any of them, by any drain or sewer constructed for the purpose.

Waters supplied for domestic or other purposes not to be returned to pond by sewers, &c.

SECTION 13. This act shall be void unless accepted by a majority of the legal voters of said town of Woburn, present and voting thereon, at a legal meeting held within one year from the time this act goes into effect.

Subject to acceptance by vote of town.

SECTION 14. This act shall take effect upon its passage.