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LAWS AND RESOLVES

PASSED BY THE

Legislature of Massachusetts

DURING THE

SESSION OF 1884.

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Secretary of the Commonwealth.

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passed at a town meeting held the seventh day of April in the year eighteen hundred and seventy-nine authorizing its treasurer to hire the sum of thirty-five hundred dollars for water works construction in addition to the twelve thousand dollars specified in the last preceding vote, the two debts contracted under said two last mentioned votes both amounting to fifteen thousand five hundred dollars and the two notes given therefor:—The vote of said town passed at a town meeting held on the twenty-sixth day of May in the year eighteen hundred and seventy-nine authorizing its water commissioners to purchase an engine for its water works and appropriating eight thousand dollars therefor:—The vote of said town passed at a town meeting held on the twentieth day of October in the year eighteen hundred and seventy-nine authorizing its treasurer to hire a sum not exceeding fifty-five hundred dollars for its water works construction, the two debts contracted under said two last mentioned votes both amounting to thirteen thousand three hundred dollars and the two notes given therefor; and the vote of said town passed at a town meeting held on the thirtieth day of July in the year eighteen hundred and eighty authorizing its treasurer to hire the sum of twenty-five thousand dollars appropriated to water works construction, the debt of fifteen thousand dollars contracted thereunder and the note given therefor.

SECT. 2. The action of said town in establishing sinking funds in accordance with any of said votes is hereby made valid and confirmed.

SECT. 3. In addition to the water debts amounting to sixty-six thousand three hundred dollars made valid and confirmed as set forth in section one of this act, said town may further increase its permanent water debt to an amount not exceeding thirty-three thousand seven hundred dollars upon complying with the provisions of chapter twenty-nine of the Public Statutes and any acts in amendment thereof or in addition thereto so far as the same are applicable.

SECT. 4. This act shall take effect upon its acceptance by a two-thirds vote of the voters of said town present and voting thereon at a legal town meeting called for the purpose within two years from its passage. [*Approved April 30, 1884.*]

[CHAP. 201.]

AN ACT to authorize the town of Concord to increase its Water Supply. *Be it enacted, etc., as follows:*

SECT. 1. The town of Concord, in addition to the powers now conferred upon it by law, is hereby authorized to supply itself and its inhabitants and other persons, towns and corporations on the line of its water works with pure water to extinguish fires, generate steam and for domestic and other purposes, and may establish public fountains and hydrants and regulate their use, and discontinue the same, and may collect rates to be paid for the use of the water.

SECT. 2. Said town, for the purposes aforesaid, may take and hold the waters of Nagog Pond, so called, in the towns of Acton and Littleton and the waters which flow into and from the same, and may also take and hold by purchase or otherwise all necessary lands for raising, holding, diverting, purifying and preserving such waters, and conveying the same to any and all parts of said town of Concord, and may erect thereon proper dams, reservoirs, buildings, fixtures and other structures, and make excavations and embankments, and procure and operate machinery therefor; and for such

purposes may construct and lay down, dig up and repair conduits, pipes and other works in, under or over any lands, water courses or railroads, and along any street, highway, alley or other way, in such manner as not unnecessarily to obstruct the same, and may dig up, raise and embank any such lands, street, highway, alley or other way in such manner as to cause the least hindrance to travel thereon.

SECT. 3. Instead of taking the entire waters of said Nagog Pond, said town of Concord may, if it shall so elect, take a part of said waters, such election to be made by a vote of said town declaring the quantity or proportion of said waters to be so taken.

SECT. 4. Within ninety days after the time of taking any lands, waters or water courses as aforesaid otherwise than by purchase, said town shall file in the registry of deeds for the southern district of the county of Middlesex a description thereof sufficiently accurate for identification, with a statement of the purpose for which the same is taken, signed by a majority of the water commissioners of said town; and if said town shall have made the election authorized by section three of this act, said description and statement shall be accompanied by a copy of the vote of said town signifying such election.

SECT. 5. Said town of Concord, if it shall have made the election authorized by section three of this act, may thereafter from time to time, if it shall so elect, take an increased proportion of said waters, each successive election to be made by a vote of said town declaring the additional quantity or proportion of said waters to be so taken, and upon each such successive election and within ninety days thereafter said town shall file in said registry of deeds a description, statement and copy of the vote therefor as provided for in section four of this act.

SECT. 6. If said town shall make the election authorized by section three of this act, said town shall provide a reliable means or method of measuring and registering the amount of water taken, such register or record to be at all times accessible to any interested parties.

SECT. 7. The said town of Concord shall pay all damages sustained by any person in property by the taking of any land, right of way, water, water source, water right or easement, or by any other thing done by said town under the authority of this act; said damages to be based and proportioned in case of the taking of water or water rights upon the amount of water taken as aforesaid. Any person or corporation sustaining damages as aforesaid under this act, who fails to agree with said town as to the amount of damages sustained, may have the damages assessed and determined in the manner provided by law when land is taken for the laying out of highways, on application at any time within three years from the time when the water is actually withdrawn or diverted, and not thereafter. No application for the assessment of damages shall be made for the taking of any water, water right, or for any injury thereto, until the water is actually withdrawn or diverted by said town under the authority of this act.

SECT. 8. Said town of Concord, for the purposes herein authorized, may from time to time borrow money and issue notes, bonds or scrip therefor to an amount not exceeding fifty thousand dollars in addition to the amount already authorized by law in the manner and under the restrictions provided by section four of chapter one hundred and eighty-eight of the acts of the year eighteen hundred and seventy-two.

SECT. 9. The board of water commissioners of said town of Concord shall execute, superintend and direct the performance of all the works, matters and things mentioned in this act and exercise all the rights, powers and privileges hereby granted to said town and not otherwise specifically provided for herein, subject to the vote of said town. The provisions of sections seven, eight, nine and ten of chapter one hundred and eighty-eight of the acts of the year eighteen hundred and seventy-two shall apply to this act as if inserted herein.

SECT. 10. Nothing contained in this act shall prevent the town of Acton nor the town of Littleton from taking the waters of said Nagog Pond whenever said towns or either of them may require the same for similar purposes, and in case of such taking by either of said towns or both of them, if from any reason the supply of water in said pond shall not be more than sufficient for the needs of the inhabitants of the towns of Acton and Littleton, then the needs of the inhabitants of said towns shall be first supplied; and if either of said towns of Acton or Littleton shall hereafter be authorized to take and shall take the waters of said Nagog Pond or any part thereof which the town of Concord may have taken under this act, said town so taking shall pay to said Concord a just and proportionate part of whatever sums the said town of Concord shall have paid or become liable to pay for water damages to any persons or corporations for the taking of water rights from said pond or the outlet thereof, to be ascertained, if the parties shall fail to agree, by three commissioners to be appointed upon the application of either party by the supreme judicial court; the report of said commissioners made after hearing the parties, and returned to and accepted by said court shall be final between the said parties.

SECT. 11. The Commonwealth of Massachusetts shall have the right to take from said Nagog Pond, for use in buildings owned by said Commonwealth in the town of Concord, an amount of water not exceeding two hundred thousand gallons per day, and the said right is hereby reserved. If the said Commonwealth shall take from said pond its waters, or any part thereof, which the town of Concord may have taken under this act, otherwise than by contract with said town of Concord, the said Commonwealth shall pay to said town of Concord a just and proportionate part of whatever sums the said town of Concord shall have paid or become liable to pay for water damages to any persons or corporations for the taking of water rights from said pond or the outlet thereof, to be ascertained and determined as is provided for in section ten of this act. But if upon the expiration of the contract made on the first day of October in the year eighteen hundred and eighty-three between the said town of Concord and said Commonwealth to provide for the delivery of water from the Concord water works for use within the walls of the state prison, said town of Concord by its water commissioners shall renew said contract for five years on the terms named therein, or shall tender to the governor of the Commonwealth a renewal of said contract for five years on the terms named therein, with the option upon the part of said Commonwealth of a further renewal for a term of twenty years upon said terms, then the right of said Commonwealth herein provided for shall cease.

SECT. 12. This act shall take effect upon its passage, but shall become void unless it is accepted by a vote of said town of Concord at a legal meeting held for the purpose within one year from its passage. [*Approved April 30, 1884.*]