

under this act as above provided, and in such case the said attaching creditor shall have the option of receiving preferred stock for the full amount of its judgment debt and costs, or of receiving, in lieu thereof, a dividend in cash from the proceeds of sale upon its said judgment debt and costs, *pro rata* with all creditors, but in no case shall the Boston, Clinton, Fitchburg and New Bedford Railroad Company be required to waive its right to take the proceeds of said sale to the full amount of its judgment debt and costs, unless all *bona fide* subsequent attaching creditors waive all their rights under their attachments, and agree to share the proceeds of said sale ratably with all other unsecured creditors and said Boston, Clinton, Fitchburg and New Bedford Railroad Company.

When and how act shall take effect.

SECTION 6. This act shall take effect upon its passage, so far as to authorize a special meeting of the Framingham and Lowell Railroad Company to be called for the purpose of acting upon its acceptance; but it shall not take effect otherwise until accepted by said company at such meeting or at any adjournment thereof, and it shall not be binding upon the Boston, Clinton, Fitchburg and New Bedford Railroad Company unless, before the sale upon execution referred to in the first section, it is accepted by vote of the directors of said corporation, nor shall it affect the rights or liens of any party which are superior to the said attachment of said corporation.

*Approved March 31, 1881.*

**Chap. 171** AN ACT TO ENABLE THE TOWN OF PEABODY TO IMPROVE ITS WATER WORKS AND INCREASE ITS WATER SUPPLY.

*Be it enacted, etc., as follows:*

May take and hold land by purchase or otherwise.

SECTION 1. The town of Peabody, for the purpose of increasing the capacity and efficiency of its water works, is hereby authorized to take and hold, by purchase or otherwise, such lands in said town as may be necessary and convenient for erecting and maintaining an engine house and pumping station, and a stand-pipe or high-service reservoir, and any structures required in connection with said works; and on said lands may erect and maintain said works, buildings and structures, and any other appliances necessary and proper for said purpose, and may connect said works and structures with each other and with the aqueducts of said town, whether now or hereafter laid.

May erect and maintain works and buildings.

May lay pipes over or under any water course, high-

SECTION 2. In the prosecution of said work, and for the purpose aforesaid, and for the purpose of connecting the water works now owned by said town or authorized by

this act with the new sources of water supply hereinafter mentioned, said town may lay and maintain pipes or other works over or under any water course, street, railroad, highway or other way, or any land whatever, and in general may do any other acts and things necessary and proper for the carrying out of said purposes; and if for said purposes said town enters upon or digs up any land, street or way, it shall restore the same to as good order and condition as it was in before such digging commenced, and the work shall be done in such manner and with such care as not to render such land, street or way unsafe or unnecessarily inconvenient to those entitled to use the same.

way, or other way.

May dig up land, etc.

SECTION 3. Said town is also authorized for the purposes aforesaid, and to increase its supply of water, to take, hold and convey into the reservoirs, aqueducts or other works now owned by said town, or authorized by this act, the waters of Cedar Pond in said town, and the waters of Humphrey's Pond situated partly in said Peabody and partly in Lynnfield, and the waters which flow into and from said ponds, and any water rights connected therewith, and may also take and hold, by purchase or otherwise, such lands around the margins 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 as may be necessary for maintaining dams and reservoirs for the storage of said waters, and such lands as may be necessary for erecting and maintaining any works proper for the taking and distribution of said waters.

May take the waters of Cedar and Humphrey's Ponds.

May take land around margins of ponds, not exceeding five rods in width.

SECTION 4. The water board of said town of Peabody shall execute, superintend and direct the performance of all the works, matters and things mentioned in this act, unless it is otherwise provided herein, or unless other officers or agents shall be by vote of the town expressly chosen for said purpose.

Works to be under direction of the water board unless otherwise voted by the town.

SECTION 5. Said town of Peabody, within sixty days after the taking of any land as aforesaid, shall file in the registry of deeds for the southern district of the county of Essex a description thereof sufficiently accurate for identification, and the title of all land so taken shall vest in said town.

To file in registry of deeds, a description of the land taken.

SECTION 6. Said town of Peabody shall be liable to pay all damages sustained by any persons or corporations by the taking of any land, water, water rights, franchises or property, or by the constructing of any aqueducts, reservoirs or other works for the purposes aforesaid. If any

Liability of town for damages.

Damages.

person or corporation, sustaining damages as aforesaid, cannot agree with the town upon the amount of such damages, he may have them assessed and paid in the same manner as is provided by law with respect to land taken for highways; but no application shall be made for the assessment as aforesaid of damages for the taking of any water rights or for any injury thereto until the water is actually withdrawn or diverted by the town; and any person or corporation whose water rights are thus taken or affected may apply as aforesaid at any time within three years from the time when the water is first actually withdrawn or diverted.

Notes or bonds may be issued not exceeding \$100,000.

SECTION 7. For the purpose of defraying the cost and expenses which may be incurred in any work or taking of property under the provisions of sections one and two of this act, said town of Peabody, through its treasurer, shall have authority to issue from time to time promissory notes or bonds to an amount not exceeding one hundred thousand dollars, bearing interest at a rate not exceeding six per centum per annum, the principal payable at periods not more than thirty years from the issuing of said notes or bonds. Said town may sell the same or any part thereof, from time to time, or pledge the same for money borrowed for the purpose aforesaid on such terms and conditions as it may deem proper. Said town is further authorized to make appropriations and assess from time to time such amounts as may be necessary to pay the interest on said loans and the principal at the maturity of said notes or bonds.

May raise money by taxation to pay for water or land taken under section three.

SECTION 8. In case said town of Peabody shall take any waters, water rights or land, or construct aqueducts or other works in connection with said new sources of supply, under the provisions of section three of this act, said town is authorized, for the purpose of defraying the cost and expenses occasioned thereby, to raise sufficient money therefor by taxation, or by borrowing in manner provided in section seven of this act; and also to appropriate and assess such amounts as may be necessary to pay the interest on any sum so borrowed, and the principal when due.

Act void unless accepted by a majority vote within two years.

SECTION 9. This act shall take effect upon its passage, and shall become void unless accepted within two years by a majority vote of the legal voters of the town of Peabody, present and voting at a legal meeting called for that purpose; and no more than three meetings shall be called for said purpose in any one year.

*Approved April 6, 1881.*