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ACTS

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GOVERNOR
TREASURER

OF THE

SEVENTY-SIXTH LEGISLATURE

OF THE

STATE OF NEW JERSEY,

AND

EIGHTH SESSION UNDER THE NEW CONSTITUTION.



BY GEORGE L. BROWN

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CHAPTER III.

AN ACT to authorize and empower the inhabitants of the city of Trenton to construct works to supply said city with water, and to provide means therefor by loan.

1. **BE IT ENACTED** *by the Senate and General Assembly of the State of New Jersey*, That the common council of the city of Trenton are hereby authorized and directed, within twenty days after this act shall take effect, as herein after provided, to appoint three commissioners, to be called "water commissioners," who shall have the powers and perform the duties herein after mentioned : the first of said water commissioners shall hold his office until the first Monday in January, Anno Domini eighteen hundred and fifty-three, the second until the first Monday in January, Anno Domini eighteen hundred and fifty-four, and the third until the first Monday in January, Anno Domini eighteen hundred and fifty-five. During the month of January, in each year hereafter, one water commissioner shall be appointed by said common council, who shall hold his office for the term of three years from the first Monday of said month of January. In case a vacancy should occur in the office of water commissioner, the said common council shall appoint a proper person to fill the same, and serve the unexpired term. No member of the common council shall be eligible to the office of water commissioner.

Appoint-
ment of wa-
ter commis-
sioners.

2. *And be it enacted*, That the said water commissioners, and every of them, appointed under the provisions of this act, before entering on the discharge of the duties prescribed by this act, shall severally take and subscribe, before the clerk of said city, who is hereby authorized to administer the same, an oath or affirmation, faithfully and impartially to discharge all the duties imposed on them by this act, which said oath or affirmation shall be filed in the office of the clerk of said city; and further, before entering upon the discharge of the duties prescribed by this act, each of said water commissioners shall repair to the common council of said city, and enter into bond to the inhabitants of the city of Trenton, with two freehold sureties, to be ap-

Commission-
ers to take
oath.

To give bond

proved of by the said common council, in such sum (not less than three thousand dollars) as the said common council may direct, conditioned for the true and faithful performance of all the duties of the said office of water commissioner. No water commissioner shall be interested or concerned, directly or indirectly, in any contract or agreement for furnishing labor or materials in the erection or repair of the works authorized by this act, which said water commissioners may make or cause to be made; but each of said water commissioners shall be entitled to receive, out of the revenues arising from said works and created by this act, the sum of one dollar and fifty cents per day for each day actually employed, not exceeding in the whole the sum of one hundred dollars in each year.

Compensation.

Commissioners authorized to construct works.

3. *And be it enacted*, That the said water commissioners are hereby invested with all the powers necessary to enable them to construct, keep up, and maintain such reservoirs, aqueducts, and apparatus for elevating water, as they may deem necessary from time to time, with such erections in the Delaware river (not obstructing the navigation thereof), and such other works, establishments, and fixtures, as may be, in their opinion, required to effectuate the objects of this act; and to use the waters of said river for the purposes contemplated by this act, and to lay all pipes, under the streets or through private property in said city, that may be needed to conduct said water from the river to the reservoirs, and from the reservoirs to such parts of the city and vicinity as the common council of said city may, from time to time, deem expedient; and for these purposes, said water commissioners may make all such contracts, and employ all such engineers, workmen, and laborers, as they may deem necessary, subject, however, to the restrictions herein after provided.

Proceedings in case commissioners and owners of land cannot agree.

4. *And be it enacted*, That if it should become necessary, in the opinion of said water commissioners, to lay pipes through any private lands in said city, or if any private lands shall be required for erecting reservoirs or other works thereon, and no agreement can be made with the owner or owners thereof, as to the amount of compensation to be paid for the laying said pipes through said lands,

or the price of such lands, as the case may be, by reason of the unwillingness of said owners, or any of them, to accept such compensation or price as said water commissioners may deem reasonable, or by reason of the absence or legal incapacity of said owners, or any of them, it shall be the duty of either of the justices of the supreme court of this state, upon application to him by said water commissioners, and after ten days' previous notice in writing of such application to the persons interested, if known and in this state, or if unknown or out of the state, after publication thereof for any term, not less than twenty days, in a daily newspaper published in the city of Trenton, to appoint three disinterested appraisers, from the county of Mercer, to determine the compensation to be paid for the laying of said pipes through said lands, or the price to be paid for said lands, as the case may be ; and it shall be the duty of the said appraisers (after having taken an oath or affirmation faithfully and impartially to discharge the trusts herein reposed in them, and after having carefully viewed the premises,) within twenty days after their appointment, to deliver to said water commissioners a written appraisalment, under the hands and seals of them, or a majority of them, of the award they have made, containing a full description of the lands through which the pipes are to be laid, or of the lands required for the erection of reservoirs or other works as aforesaid, which appraisalment the said water commissioners shall cause to be recorded in the registry of deeds for the county of Mercer ; and upon payment, or tender, by the said water commissioners to such owner or owners as aforesaid, or some one of them, of the sum awarded in such appraisalment, if any, then the said water commissioners shall have the right to lay said pipes through the lands aforesaid, or " the inhabitants of the city of Trenton " shall be deemed seized in fee simple of the lands required for the erection of the said reservoirs or other works as aforesaid : and in case any owner or owners of such lands shall be feme covert, under age, non compos mentis, or out of the state, then and in that case it shall be sufficient for said water commissioners to pay the amount, which may have been appraised as aforesaid, into the court

of chancery of this state, subject to the order of said court, for the use of the party or parties entitled to the same; the costs of all which proceedings shall be taxed by the said justice of the supreme court, and paid by the said water commissioners.

Parties aggrieved may appeal.

5. *And be it enacted*, That in case the commissioners or the owner or owners of the said land shall be dissatisfied with the award of the appraisers named in the preceding section, and shall apply to the justices of the supreme court, at the next term after filing of the said award, the court shall have power, upon good cause shown, to set the same aside, and thereupon to direct a proper issue for the trial of the said controversy to be formed between the said parties, and to order a jury to be struck, and a view of the premises to be had, and the said issue to be tried at the next circuit court to be holden in said county, upon the like notice and in the same manner as other issues in the said court are tried; and it shall be the duty of the said jury to assess the value of the said land or damages sustained, and if they shall find a greater sum than the said appraisers shall have awarded in favor of the said owner or owners, then judgment therefor, with costs, shall be entered against said commissioners, and execution awarded therefor; but if the said jury shall be applied for by the said owner or owners, and shall find the same or a less sum than the commissioners shall have offered or the said appraisers awarded, then the said costs to be paid by said applicant or applicants, and either deducted out of the said sum found by the said jury, or execution awarded therefor, as the court shall direct; but such application shall not prevent the commissioners from taking or laying pipes through said lands upon the award of the appraisers, the value or damages being first paid, or upon a refusal to receive the same, upon a tender thereof, or the owner or owners thereof being under any legal disability, the same being first paid into the court of chancery.

Commissioners may enter upon private lands to make repairs &c.

6. *And be it enacted*, That whenever it shall become necessary to make any repairs or alterations in any pipes, which may have been laid through any private lands, either by virtue of the preceding section or by agreement with the

owner or owners thereof, it shall be lawful for the said water commissioners, with their workmen and agents, and with necessary vehicles, tools, and implements, to enter upon said lands, and make the necessary repairs and alterations, doing no unnecessary damage; *provided always*, Provided, that nothing in this section contained shall be so construed as to protect the said water commissioners, or their workmen or agents, from any action that may be brought against them, individually, by the owner or owners of said lands, for any damage which they may have wilfully or unnecessarily done.

7. *And be it enacted*, That the work and materials, Contracts to be made for work and materials. which the said water commissioners are herein before authorized to procure, shall be obtained by contract, whenever practicable, and that notice shall be given by said water commissioners by public advertisement, so that ample time may be given for the reception of proposals therefor: in every advertisement, the proposals invited shall be set forth with as much precision as possible, and it shall be distinctly stated in such advertisement, that no extra allowance above the contract price agreed upon will be made under any pretext whatsoever; each contract shall, in all cases, be awarded to the lowest bidder therefor, who shall give bond, with ample security for the faithful performance of the contract; all such bonds shall be executed to "the inhabitants of the city of Trenton," and deposited for safe keeping in the office of the clerk of said city; and no extra allowances shall be made by said water commissioners to any contractor or contractors. All contracts involving a greater amount than two hundred dollars, and all contractor's bonds, shall be presented to and approved of by the common council of said city, before said contract shall take effect.

8. *And be it enacted*, That when said works shall have been sufficiently completed, the said water commissioners shall have authority to furnish water to individuals, and to establish such general rates of price and times of payment thereof, as they may deem proper, and to prescribe such rules, regulations, conditions, and restrictions, as to the use of the water, as may, in their opinion, be necessary to pre- Commissioners to establish water rates, &c.

vent abuse; and said water commissioners shall have power, and it shall be their duty, to stop off the water from any premises, the owner or occupants of which shall have neglected to pay such price, at the time specified for the payment thereof, or shall have violated or permitted the violation of any of said rules, regulations, conditions, or restrictions; and whenever the said water commissioners shall have caused the water to be stopped off from any premises, for either of the causes aforesaid, they shall not permit the same to be restored until the applicant for such restoration shall have paid all arrearages of water rent, together with the expense incurred in stopping off the water; or in case said water shall have been stopped off by reason of any violation of the rules aforesaid, then they shall not permit the same to be restored until the expense of stopping off the same shall have been paid by the applicant for such restoration, and such applicant shall have given satisfactory security or assurance that such violation shall not again occur.

Water rents,
how collect-
ed.

9. *And be it enacted*, That the rents for the use of the water which said water commissioners may supply as aforesaid, shall draw interest from the time they become due, and shall be and remain, until paid, a lien upon the premises to which the same may be conducted and supplied; and said water commissioners shall have similar remedies for the collection of said rents, with interest and costs, as the common council of said city have by law for collecting the expense of paving sidewalks in front of lots in said city; which remedies it shall be the duty of said water commissioners to enforce in all cases where the water rents shall be more than two years in arrear.

Commission-
ers may em-
ploy agents.

10. *And be it enacted*, That the said water commissioners shall have power to employ proper persons in the management of the works aforesaid, and in the collection of the said water rents, upon such terms as they may deem reasonable; *provided*, that no regular salaries or commissions shall be allowed or paid by said water commissioners without having been first by them submitted to, and approved of by the common council of said city.

Proviso.

Fire plugs to
be erected.

11. *And be it enacted*, That it shall be the duty of said water commissioners to erect fire plugs in the public

streets of said city, through which pipes for the supply of water shall have been laid, in such number and locations as the common council of said city may from time to time direct, and to supply the same with water from the aforesaid works.

12. *And be it enacted*, That if any person or persons shall wilfully do, or cause to be done, any act whatsoever whereby the said works, or any pipes, conduit, canal, plug, cock, tank, cistern, reservoir, or any other thing appertaining to the same shall be stopped, obstructed, or injured, the person or persons so offending shall, upon conviction thereof before the mayor, recorder, or either of the aldermen of said city, forfeit and pay the sum of fifty dollars, with cost; which sum shall be collected in the same manner as is provided in the charter of the city of Trenton for the collection of fines, and shall be paid over to said water commissioners.

Penalty for
injuring
works.

13. *And be it enacted*, That if any person or persons shall wilfully pollute or adulterate the waters in any reservoir erected under the provisions of this act, every person so offending shall be deemed guilty of a misdemeanor, and on conviction thereof, shall be punished by fine, not exceeding five hundred dollars, or by imprisonment at hard labor, not exceeding three years, or both, at the discretion of the court before whom such conviction shall be had.

Penalty for
polluting or
adulterating
water.

14. *And be it enacted*, That it shall be the duty of the mayor of said city, from time to time, at the request of the said water commissioners, to issue the bonds of said city, for an amount not exceeding in the whole the sum of eighty thousand dollars. These bonds shall bear a rate of interest not exceeding six per cent. per annum, payable semi-annually, the principal thereof to be payable on the first day of July, in the year eighteen hundred and eighty-two, or sooner, at the option of the said city. It shall be the duty of the treasurer of said city to make sale of the bonds so issued as aforesaid, at not less than their par value, and to pay the proceeds of said sales to said water commissioners, to be by them appropriated to the discharge of the duties imposed upon them by this act. The loan hereby authorized shall be called the water loan of said city.

Mayor au-
thorized to
issue bonds.

Bonds not taxable.

15. *And be it enacted*, That the bonds issued under the provisions of this act shall not be liable to any tax which may hereafter be levied by order of the common council of said city.

Revenue, how appropriated.

16. *And be it enacted*, That all the revenues which may be derived from the rents of water authorized by this act, and from other sources connected with said works, shall be received by said water commissioners; and so much of the same as may be necessary shall be appropriated by them, under the restrictions herein before provided, to the maintenance, preservation, and extension of said works: the said water commissioners shall also pay semi-annually, from said revenue, such sums to the city treasurer as shall be sufficient to pay the semi-annual interest accruing on the bonds authorized by this act; the residue of said revenues shall be paid over semi-annually by the water commissioners to the commissioner of the sinking fund of said city, to be by him invested, and with the accumulation thereof reinvested, for the final extinguishment of said water loan.

Annual statement to be made.

17. *And be it enacted*, That in the month of May, in each and every year, it shall be the duty of said water commissioners to certify to the common council of said city what, in their opinion, will be the net revenue of the said works for the ensuing year, applicable to the payment of the semi-annual interest on said water loan; and it shall thereupon be the duty of said common council to add to the amount of taxes for that year such sum as, having due regard to said estimate, said common council may deem sufficient, together with the net revenue of said works, to pay the semi-annual interest on said water loan.

Treasurer of city to pay certain sums of money to commissioners.

18. *And be it enacted*, That after said work shall have been so far completed as to supply water to consumers, and until the revenues of said work shall be sufficient, after payment of expense and interest, to enable said water commissioners to pay over to the commissioner of the sinking fund of said city the sum of one thousand dollars per annum for investment as aforesaid, it shall be the duty of the treasurer of said city to pay over to the commissioner of the sinking fund, on the first day of October, in each year,

such sum as, together with the sum said water commissioners may pay, or may have paid, during said year to the said commissioner of the sinking fund, will amount to the sum of one thousand dollars. This sum said commissioner of the sinking fund shall invest for the redemption of the water loan, as is herein before provided.

19. *And be it enacted*, That it shall be the duty of said water commissioners to keep all funds which may come to their hands on deposit with one or more of the banks located in said city; and they shall draw said funds by checks upon said bank or banks, to be signed by at least two of their number, which said checks shall specify briefly the purposes for which the same are drawn: and the said water commissioners shall keep accurate accounts of their receipts and disbursements in proper books, to be provided by them for the purpose, and which shall always be open for the inspection of the common council of said city and their authorized agents; and which accounts shall be annually, in the month of March, audited by a committee of said common council, and a short abstract thereof shall be published with the annual statement of the city finances. Every water commissioner, at the expiration of his term of office, shall deliver to his co-commissioners all books and papers which he may have in his possession or custody by virtue of his said office; and all books and papers of said water commissioners, which are no longer currently needed by them, shall be deposited with the clerk of said city, who is hereby required to keep them safely in his office, but with liberty to said water commissioners at all times to examine the same in said clerk's office.

20. *And be it enacted*, That nothing in this act contained shall be construed to authorize the said water commissioners to invade or infringe the legal rights of the president and directors of the Trenton water works.

21. *And be it enacted*, That the said water commissioners are hereby authorized, if they can agree with the president and directors of the Trenton water works, and the terms of such agreement having been first submitted to and approved of by the said common council, to purchase the capital stock and real and personal estate of said com-

pany; and the said president and directors of the Trenton water works are hereby authorized and empowered, with the consent of a majority of the stockholders thereof, to enter into and perform such agreements and sale; and upon completion of such purchase, the real and personal estate of said company shall vest in the inhabitants of the city of Trenton; and the privileges granted by the act incorporating said company, so far as the same are applicable to the purposes of this act, shall be exercised by said water commissioners.

Election for
water loan.

22. *And be it enacted*, That an election by ballot shall be held on the first Monday in March next, in each of the wards of said city, at the places of holding the last election in said city, at which election the electors of said city shall vote upon the question of raising the water loan authorized by this act, those in favor of raising said loan depositing ballots endorsed "For water loan," and those opposed thereto depositing ballots endorsed "Against water loan;" the poll of such election shall be opened at nine o'clock in the forenoon, and shall be kept open till four o'clock in the afternoon, and the election officers of the several wards shall conduct such election; and in case of vacancy, from any cause, such vacancy shall be filled by the electors of the ward in which the same may arise, before the opening of the poll; after counting off the votes polled, the result of said election, in each ward, shall be certified by the election officers in each ward, to the common council of said city; and if it shall appear that a majority of the electors of said city voting at such election have voted for the said water loan, then this act shall be deemed to take effect immediately, but if otherwise, then this act shall be void.

Approved February 11, 1852.