

ACTS

OF THE

EIGHTY-THIRD LEGISLATURE

OF THE

STATE OF NEW JERSEY,

AND

FIFTEENTH UNDER THE NEW CONSTITUTION.



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1859.

CHAPTER XVII.

AN ACT to authorize "the President and Directors of the Trenton Water Works" to convey their works and franchises to the city of Trenton, and to provide for the management of said works.

Preamble.

WHEREAS, "the inhabitants of the city of Trenton" have purchased the whole of the capital stock of "The President and Directors of the Trenton Water Works," and have thus become the real owners of said works, but are compelled to manage and conduct the same pursuant to the provisions of the charter of said company, in whom the legal title to said work is still vested, therefore

President,
&c., author-
ized to
convey
property.

1. BE IT ENACTED by the Senate and General Assembly of the State of New Jersey, That it shall be lawful for "The President and Directors of the Trenton Water Works," and they are hereby required on or before the first day of May next, to convey unto "the inhabitants of the city of Trenton" all the real estate, works and property, and all the corporate rights, powers, franchises, and privileges of said company; and that upon the due execution of such conveyance, the legal title to said real estate, works and property, and all the corporate rights, powers, franchises and privileges of said company shall pass to and vest in "the inhabitants of the city of Trenton," in as full and ample a manner as the same now are or heretofore have been held and enjoyed by the said company.

Appoint-
ment of com-
missioners.

2. And be it enacted, That the said water works shall be conducted and managed exclusively by and through a board of commissioners to be appointed as hereinafter directed, and that all the authority, powers and duties relative thereto now exercised and performed by the president and directors of said company shall be exercised and performed by said commissioners, except as is herein-after provided; and in pursuance of this authority the said

commissioners may appoint and employ all proper clerks, officers, agents and assistants necessary or convenient for the purposes aforesaid at such compensation as they may deem reasonable; *provided*, that the said commissioners shall have no power or authority to create loans or borrow money, and shall not be entitled to take or receive any compensation for their services.

3. *And be it enacted*, That the real estate, works and property hereby authorized to be conveyed to the inhabitants of the city of Trenton, and the income thereof shall be and remain liable in their hands for the payment of all debts heretofore contracted by the president and directors of the Trenton Water Works; and that for the purpose of paying such debts and to provide for the further extension of said water works, it shall and may be lawful for the common council of said city, upon the written application of said commissioners, to issue the bonds of the city for an amount not exceeding in the whole the sum of fifteen thousand dollars, which bonds shall not be disposed of at less than par value, and shall bear interest at the rate of six per cent. per annum, payable semi-annually, and shall not be subject or liable to any tax which may be levied or assessed by order of the common council of said city; *provided*, that such bonds shall not be issued in any case except a majority of the whole number of said council shall concur therein.

4. *And be it enacted*, That the said bonds or the proceeds thereof, when sold by the said commissioners, shall be applied first, to the payment of the debts of the president and directors of the Trenton Water Works, and the balance, if any, shall constitute a fund for the future extension of said works, and shall be used exclusively for that purpose, and no other.

5. *And be it enacted*, That the net rents and revenue received from the said water works, after paying all expenses for maintaining the works and extending the pipes, and paying salaries, wages and incidental expenses, shall be appropriated, first to the payment of the interest on the bonds

Bonds may
be issued for
payment of
debts.

Proviso.

Proceeds,
how applied.

Rents and
revenue,
how applied.

heretofore issued for the purchase of the stock of said company, called the "water loan," and also on the bonds issued pursuant to the provisions of this act, which shall be deemed part of said loan, and the balance thereof shall be set apart as a sinking fund for the payment of the principal of said bonds; and that no part of said rents and revenue shall be appropriated or used for any other purpose whatever until the whole of said debt is paid and satisfied; *provided*, that the said commissioners shall not expend out of said water rents in any one year more than five hundred dollars for extending the pipes, and all extensions shall be charged to construction account, and they shall not make any such extension or improvement (necessary repairs excepted), the cost of which shall exceed said amount, in any one year, unless the common council shall have previously authorized the issue of city bonds for the purpose of paying therefor.

Moneys to be paid to city treasurer.

6. *And be it enacted*, That the said commissioners shall, on the last Monday of April, and on the last Monday of October in each year, pay over to the treasurer of the city of Trenton so much of the net rents and revenue of said works for the preceding six months, as will be sufficient to pay the semi-annual interest on the bonds mentioned in the last preceding section; and shall on the same days pay over the surplus, if any, to the "Commissioner of the Sinking Fund" of said city, to be by him safely invested in the same manner that other city moneys are invested by him, and allowed to accumulate as a sinking fund for the payment of said bonds at maturity.

Assessment to be made for payment of interest.

7. *And be it enacted*, That until such time as the net rents and revenue of said works shall be fully sufficient to pay the interest of said water loan, it shall be the duty of said commissioners, in the month of April in each and every year, to certify to the common council of said city what in their opinion will be the net revenue of said works for the ensuing year applicable to the payment of said interest; and thereupon the said common council may impose, assess, and collect such an amount of tax as shall be

sufficient, with the estimated net revenue of said works, to pay the interest on said water loan for that year; and the said common council are hereby empowered to add to the amount they now are or hereby may be authorized to raise in the general assessment, such sum as shall be necessary for the purpose aforesaid, notwithstanding any limitation or restriction contained in the charter of said city, or the supplement thereto.

8. *And be it enacted*, That the city treasurer shall keep a separate account of all moneys received and paid by him on account of the interest of said water loan, particularly specifying therein the amounts received semi-annually from the water commissioners, as also the amount raised by taxation for the purpose of paying said interest, the whole of which shall be credited in said account and applied exclusively to the purpose aforesaid.

Accounts to
be kept of
interest
paid.

9. *And be it enacted*, That a majority of said commissioners shall constitute a quorum for the transaction of business, and they shall keep regular books of account, and books for recording the whole of their official proceedings, and all such books shall be open at all times to the examination of any member of the common council of the city of Trenton, and of any person or persons appointed by said common council for that purpose; the said commissioners shall also, on the first Monday in February of every year, make a report to the said common council of the condition of the said water works, accompanied by a detailed statement of their receipts and expenditures on account of the same, an abstract of which shall be published with the annual statement of the city treasurer.

Commission-
ers to make
annual
statement.

10. *And be it enacted*, That all the contracts and engagements, acts and doings of the said commissioners within the scope of their duty or authority, shall be obligatory upon, and be in law considered as done by the inhabitants of the city of Trenton, and any judgment recovered against the said commissioners in their official capacity, as provided in the next succeeding section, shall have the same force and effect as a judgment against the city, and shall

Contracts,
&c., of com-
missioners
to be binding
on city.

be enforced by the same process and in the same manner as if the same had been rendered in an action brought against "the inhabitants of the city of Trenton."

General powers of commissioners.

11. *And be it enacted*, That the said commissioners may sue and be sued, and prosecute or defend any action or process at law or in equity, by the name of "the Water Commissioners of the City of Trenton," against any person or persons for money due for the use of the water, for the breach of any contract, express, or implied, touching the execution or management of the works, or the distribution of the water, or of any promise or contract made to or with them, and also for any injury, trespass, or nuisance done or suffered to the water, reservoirs, pipes, machinery, or any apparatus belonging to or connected with any part of the works, or for any improper use or waste of the water; and any vacancy or the filling of any vacancy in the board of commissioners, either before or after any cause of action arises or suit is commenced, shall not change the right of said commissioners as a body to commence, maintain, or defend such action or suit, but for such purposes and in such cases they shall be considered from the time of the organization of the board as a body corporate.

Previous contracts to be binding on commissioners.

12. *And be it enacted*, That all promises and contracts made by or with the president and directors of the Trenton water works previous to the execution of the conveyance hereinbefore authorized, shall be binding on the said commissioners and upon the other contracting party in the same manner and to the same extent as if said promise or contract had originally been made by or with the said commissioners; and that all actions, suits, and remedies relative thereto shall be brought, prosecuted and enforced in the manner specified in the last preceding section in as full and ample a manner as the same might or could have been prosecuted and enforced by or against the president and directors of the Trenton water works in case this act had not been passed.

13. *And be it enacted*, That the board of commissioners for the time-being shall have power and authority to regulate the supply and use of the water, to fix the prices for the same and the times of payment, to make and prescribe such rules, regulations, conditions, and restrictions as they may deem necessary or expedient with reference to the use and mode of drawing the water, the collection of water rents, and the mode of enforcing such collection; and they shall have power to impose such penalties in addition to cutting off the water as they may deem expedient, for the violation of such rules, regulations and restrictions.

Duties and powers of commissioners.

14. *And be it enacted*, That it shall be the duty of said commissioners to erect and maintain fire plugs in the public streets of said city, through which water pipes shall have been laid in such number and locations as the common council may from time to time direct, and to supply the same with water; and such plugs shall be under the control and direction of the common council, who are hereby authorized by ordinance to make the necessary rules and regulations respecting the use thereof, and to prescribe penalties for their violation and the mode of collecting such penalties.

Commissioners to erect and maintain fire plugs.

15. *And be it enacted*, That the said commissioners shall elect annually one of their number to be president of the board, who shall, under their direction, have their general superintendence of the water works and the business of the board; the president, or in his absence, one of the commissioners appointed by the board for that purpose, shall sign all contracts and all orders on the treasurer for the payment of moneys which may be authorized by the said commissioners.

Election of president.

16. *And be it enacted*, That the said commissioners shall require and take from their treasurer and such officers and agents as they may appoint, such bonds and securities for the faithful performance of their duties as they may deem proper.

Treasurer, &c., to give bonds.

17. *And be it enacted*, That Charles Moore, Philemon Dickinson, Daniel Lodor, David S. Anderson, Jacob M.

First commissioners.

Taylor, and Albert J. Whitaker, shall constitute the first board of water commissioners, and shall at their first meeting determine, by lot or otherwise, the terms during which they shall hold their offices; and these shall be as follows: two of them shall remain in office one year, two of them two years, and two of them three years; all to be computed from the first day of July next.

*Election of
commis-
sioners.*

18. *And be it enacted*, That the common council of said city shall in the month of June, at their regular monthly meeting, in the year eighteen hundred and sixty, and in the same month in every year thereafter, elect two commissioners, who shall hold their office for three years, to be computed from the first day of July next ensuing their election; and any vacancy that may occur in said commission, by death, resignation, or otherwise, shall be filled by the common council at a regular monthly meeting, but the person appointed to fill such vacancy shall hold his office only for the residue of the term for which he may be appointed; *provided*, that no member of common council shall be appointed a water commissioner, or act as such after his election as a member of said council.

Proviso.

*Former acts
repealed.*

19. *And be it enacted*, That all acts or parts of acts, conflicting with this act, be, and the same are hereby repealed.

20. *And be it enacted*, That this act shall take effect immediately.

Approved March 1, 1859.