

THE
STATUTES OF CALIFORNIA

PASSED AT THE
TWENTY-FIRST SESSION OF THE LEGISLATURE,
1875-6,

BEGAN ON MONDAY, DECEMBER SIXTH, EIGHTEEN HUNDRED AND SEVENTY-
FIVE. AND ENDED ON MONDAY, APRIL THIRD, EIGHTEEN
HUNDRED AND SEVENTY-SIX.



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1876.

CHAP. CCCLX.—*An Act to provide for the redemption of the outstanding railroad bonds of Butte County.*

[Approved March 27, 1876.]

The People of the State of California, represented in Senate and Assembly, do enact as follows :

SECTION 1. Whenever the Railroad Bond Redemption Fund of Butte County shall amount to one thousand dollars, or more, the County Treasurer shall give notice for the space of thirty days, by advertising in one or more newspapers published in said county, of his readiness to pay and redeem the outstanding railroad bonds of said county by designated numbers of the same, and the time and place of payment; and in case that said designated bonds are not presented for payment and redemption as required by said notice, then and thereafter such bonds shall bear no interest; and thereupon the said County Treasurer shall apply said fund, or the balance thereof, to the payment of the bond next entitled to precedence in the order of the numbers of their issue, in case the same shall be presented for payment. Treasurer to redeem bonds.

SEC. 2. The mode and manner for redeeming and paying said bonds provided for in this Act shall be continued from time to time as long as there are moneys in said redemption fund, and until the whole of said bonds are finally redeemed and paid.

SEC. 3. Whenever any bond is paid and redeemed under the provisions of this Act, the said County Treasurer shall then and there, in the presence of the Auditor of said county, cancel the same, together with all coupons thereto attached, by writing across the face of said bond and coupons attached the word "Paid" and the date of payment. Cancellation.

SEC. 4. Railroad bond number forty-eight, belonging to the School Fund of Butte County, is hereby excepted from the provisions of this Act. Bond excepted.

SEC. 5. All Acts and parts of Acts in conflict with the provisions of this Act are hereby repealed.

SEC. 6. This Act shall take effect and be in force from and after its passage.

CHAP. CCCLXI.—*An Act to authorize the City and County of San Francisco to provide and maintain public water-works for said city and county, and to condemn and purchase private property for that purpose.*

[Approved March 27, 1876.]

The People of the State of California, represented in Senate and Assembly, do enact as follows :

SECTION 1. The Mayor, District Attorney, and the Auditor of the City and County of San Francisco, are hereby author- Commissioners to supply water.

ized to act as a Board of Commissioners, with the power and authority to acquire, by purchase or otherwise, for the City and County of San Francisco, as provided for in this Act, a sufficient supply of pure fresh water for the use of the inhabitants of said city and county.

Engineer.

SEC. 2. Said Commissioners shall have the right to employ a competent, disinterested engineer, who shall be one of the Corps of Engineers of the United States army stationed in San Francisco, or, if the officers of said corps cannot serve, a competent, disinterested engineer, who, together with said Commissioners, shall proceed immediately to make a careful and thorough examination of all the water, water rights, water-works, appurtenances, and sources of water supply on the peninsula of San Francisco, or wherever convenient to supply San Francisco with water, after which said Commission shall enter into negotiation with the owners and claimants of any such water, water rights, water-works, sources of supply, land, and appurtenances, deemed by them requisite and necessary, and may purchase of such owners and claimants any and all such rights and property, at such a fair and equitable valuation as may be agreed upon between them, when ratified and confirmed by a majority of the votes cast at the election hereinafter provided; *provided*, that no water, water-works, or water rights in the Counties of Nevada, Santa Clara, Placer, Alameda, El Dorado, Tulare, or Kern, shall be subject to condemnation under the provisions of this Act.

Commissioners to examine sources of supply.

Purchase of same.

Counties excepted.

When failure to agree upon terms.

SEC. 3. If a majority of said Commissioners should fail to agree upon the amount to be paid to the owners and claimants of said water, water rights, water-works, sources of supply, and land and appurtenances necessary and requisite, or any part thereof, then, in that event, the Mayor, Auditor, and District Attorney may each appoint one competent and disinterested citizen, tax-payer of the City and County of San Francisco, to be approved by the Board of Supervisors, to represent said city and county; and the owners and claimants of the rights and property sought to be acquired by this Act shall have the right to appoint three competent and disinterested citizens, tax-payers of the State; and the Judge of the County Court of said city and county shall appoint a seventh, having like qualifications; and the seven citizens shall constitute said Commission, with full power to assess the value and the amount to be paid to the party and parties entitled thereto, for all the rights and property acquired and to be acquired under this Act; and the consent of at least five of said seven Commissioners shall be signed to the award.

Special Commission.

Commissioners to be disinterested.

SEC. 4. Each Commissioner, in addition to his oath of office, shall swear that he is entirely disinterested, and unconnected with any one who is interested in the subject-matter for which he is appointed; and that he will perform the duties of said Commission without fear, favor, or partiality, and, to the best of his ability, will report the true value of the rights, property, and privileges to be acquired

under this Act; and that he will do equal and exact justice to the whole subject and matter committed to him.

SEC. 5. Said last-mentioned Commissioners shall, in case of their appointment, immediately organize, select a suitable place for meetings, and proceed at once, together with the engineer heretofore provided for, to examine carefully all the rights, property, and privileges sought to be acquired by this Act. They shall have the power to summon witnesses, take testimony, and obtain all the information necessary to enlighten them in the matter submitted to them. They may employ a short-hand reporter, and have all the testimony taken written out. They may call upon the City and County Attorney to aid them, if necessary, in their proceedings. Should the owners or claimants of any of the rights or property sought to be acquired and appropriated to the public use, under the provisions of this Act, refuse or neglect to appoint three Commissioners on their behalf within twenty days after having been requested in writing, by the Mayor, so to do, then the four Commissioners, as before provided for, shall proceed in all things as required of the seven, and the majority of said Commissioners must agree upon and sign their report. The Commissioners shall transmit, with their report, a copy of all the evidence and proof taken by them in the course of the discharge of their duties as Commissioners, and file the same with the County Clerk within three months from and after their appointment; and such report shall be binding on and conclusive as to all parties in interest, unless set aside for actual fraud, in which case the Judge of said County Court can modify said report, or appoint new Commissioners, and direct them to proceed as provided in sections three and five of this Act. The Commissioners and engineer shall be paid such just compensation, together with necessary expenses, as the Supervisors of said city and county shall deem proper; and the Treasurer of said city and county shall pay out of the General Fund the amount so awarded by the Supervisors of said city and county.

Powers of special Commissioners.

Report.

Compensation.

SEC. 6. In order to raise means necessary to carry into effect the provisions of this Act, the Board of Supervisors of said city and county shall be and they are hereby authorized to issue bonds of said city and county. Said bonds shall be issued in sums of one thousand dollars each, with coupons for interest, and shall draw interest at the rate of six per cent. per annum from the date thereof; and the principal shall be made payable at a specified day, to be named in said bonds, which shall be thirty years after their date, at the office of the Treasurer of said city and county, both principal and interest payable in gold coin of the United States. The interest on said bonds shall be payable semi-annually, on the first day of January and the first day of July of each year, at said Treasurer's office.

Supervisors to issue bonds.

Interest.

SEC. 7. Said bonds shall be signed by the Mayor and Auditor of said city and county, and registered in numerical order in books kept for that purpose by the Auditor and Treasurer of said city and county respectively, and when so

Register of bonds.

signed, shall be presented by the Mayor to the Clerk of the Board of Supervisors of said city and county, who shall, in the presence of the Mayor, countersign the same as such Clerk, impress the corporate seal of said city and county on each, and redeliver them to the Mayor, who shall thereupon report to said Board of Supervisors, at a meeting thereof, the number, date, and amount of each bond so signed and countersigned, which report shall be entered upon the journals of said Board as said bonds shall be issued or disposed of, in the order in which the same shall be numbered.

Bonds to be offered in payment.

SEC. 8. Said bonds, or the portion thereof necessary to purchase and pay for the rights acquired under this Act, shall be issued to the party or parties entitled thereto, as a majority vote of the Board of Supervisors may direct, and be delivered by the Mayor to the owner and owners of all the rights acquired, and a good and sufficient deed of the rights so acquired shall be conveyed to the city, to be approved of by the City and County Attorney, and recorded in the office of the County Recorder. If the owner or owners of the rights to be acquired should decline to accept the bonds of said city, the Mayor shall have the right to dispose of so many bonds as will be necessary to pay for the rights to be acquired, under such restrictions as the Board of Supervisors may adopt.

Refusal of owners to accept.

Water rates to be fixed.

SEC. 9. The Board of Supervisors of said city and county shall, by order, after the purchase of such water rights and privileges, from time to time fix the rates to be paid by consumers of water, which rates shall not exceed an amount sufficient to pay interest on the cost of acquiring the real estate, water, water rights, and property hereby authorized to be acquired, and also interest on the cost of laying down mains and buildings, reservoirs, and also the actual amount for keeping the same in repair and maintaining a complete system of water-works.

Receipts, how applied.

SEC. 10. The money acquired from the consumers of the water shall be kept in a separate fund by the County Treasurer, devoted exclusively to the paying of the interest of the bonds and necessary expenses of maintaining the water-works, and to be called the "Water, Interest, and Expense Fund;" and no taxes for the Sinking Fund shall be levied until ten years from and after the time of the issuance of said bonds, when the Board of Supervisors shall then regulate the rates to be charged consumers of water so far as to create annually a Sinking Fund to liquidate the said bonds; and all the money in the Water Fund shall be applied, by the Treasurer, to the purposes of this Act:

First—To the payment of the interest on said bonds as the same shall fall due.

Second—To the redemption of said bonds as hereinbefore provided for.

When fund insufficient, tax to be levied.

Said bonds shall, until paid, be a lien upon all the real estate, water, water rights, and property acquired under the provisions of this Act. In case the money in said fund shall at any time be insufficient to meet the payments herein provided for, the deficiency shall be raised by a tax upon the

real and personal property taxable in said city and county, to be assessed, levied, and collected at the time and in the manner provided for the assessing, levying, and collecting of other municipal taxes.

SEC. 11. The Mayor, to be confirmed by the Board of Supervisors of said city and county, shall have power to appoint three Water Commissioners, and to fix their compensation, who shall have full and complete management of the real estate, water, and water-works provided for and acquired under this Act, and who shall hold office for the term of four years and until their successors shall be appointed. Said Water Commissioners may appoint competent and reliable persons to supervise and carry into effect, to the best possible advantage to the inhabitants of the City and County of San Francisco, the provisions of this Act. They may fix the salary and term of office of such appointees, under such orders and resolutions as the Board of Supervisors of said city and county may from time to time adopt.

Mayor to appoint Water Commissioners.

Salaries to be fixed.

SEC. 12. The Board of Supervisors of said city and county may, by ordinance, after such purchase, pass such rules and regulations as, in their judgment, may be proper, to provide for the collection of water rates and water dues, and in case default be made in the payment of such water rates, to cut off the supply from consumers who shall make default in the payment thereof; to prevent any interference with the mains, reservoirs, sources of supply, and pipes of the water-works; to prevent any impure, deleterious, or foul matter from being dumped or thrown into any water-course or water supply connected with such water-works, or the conduct of any business, art, or trade which by drainage may injuriously affect the water supply, and to prevent the erection or maintenance of any nuisance that may affect the same.

Collection of water rates.

SEC. 13. Said City and County of San Francisco shall not be permitted to take possession, unless with consent of owner or owners, of any real estate, water, or water rights hereby authorized to be acquired, until the compensation agreed upon or determined, as hereinafter provided, shall have been paid, either to the person, persons, or corporation determined to be entitled thereto, or deposited with the Treasurer of said City and County of San Francisco, who shall hold the same subject to an order of the Judge of the County Court, to pay the amount so deposited to the party or parties entitled thereto.

When city may take possession.

SEC. 14. Said city and county is authorized to lay down and maintain mains and water-pipes in the peninsula, and in the streets and highways of said city and county, and do all things necessary to maintain and carry on a complete system of water-works. If any person or persons, company or corporation, shall bring water within the corporate limits of said city and county, such person or persons, company or corporation, shall have the right to lay down mains, pipes, maintain water-works, and supply the inhabitants of said city and county, conditioned that the person or persons, company or corporation, shall place all the streets in which such mains, pipes, and works are laid, in good order and condi-

City to lay down pipes.

tion, and comply with all the requirements and regulations in that particular of the Board of Supervisors.

Electors to
vote on
question of
purchase.

SEC. 15. Within thirty days after said Commissioners have agreed upon the amount to be paid for the rights acquired under the provisions of this Act, the Board of Supervisors of said city and county shall order a special election upon said question, to be held in said city and county, within a period of not less than thirty (30) days from and after the date of making such order. Said order shall be published in at least three of the daily newspapers in said city and county, for said period of thirty days, and shall state the time when said special election shall be held, and the question to be voted upon at such election. Said Board of Supervisors shall make all necessary provisions therefor. Said election shall be governed by and conducted under the general election laws of this State, so far as the same are applicable thereto. Said Board shall cause two sets of tickets, equal in numbers, to be printed with the following words, "The purchase of Water Rights"—Yes, on one set of tickets, and the words, "The purchase of Water Rights"—No, on the other set of tickets, and the majority of all the votes cast at such special election shall be final and conclusive upon the question; and if a majority of all the votes cast shall be against the proposed purchase of water rights, then no further proceedings shall be had under such proposed purchase, but said Commissioners shall have the right, and it shall be their duty to again proceed, under this Act, to negotiate, agree upon terms, and submit the same to the people; a sufficient number of said tickets shall be furnished at each polling-place in said city and county, by persons appointed for that purpose by the Board of Supervisors. The persons so appointed shall be required to remain in the vicinity of their respective polling-places from the opening to the closing of the polls, and shall be sworn to faithfully discharge the duties devolving upon them under this section. The failure of the first or any subsequent attempt to acquire property under this Act, for the purposes herein named, at any stage of the proceedings, shall not operate to extinguish the power of said city and county to acquire water rights, water-works, and property for the purposes, and in the mode and manner herein provided; but new proceedings may be had for the purposes, and in the mode and manner prescribed in this Act, and by the authorities herein provided, as often as may be necessary, until a sufficient supply of pure fresh water shall be secured for the use of the inhabitants of said city and county.

Form of
ballots.

If voters
reject, new
proceedings
to be had.

SEC. 16. This Act shall take effect and be in force from and after its passage.