

PUBLIC ACTS

PASSED BY THE GENERAL ASSEMBLY

OF THE

STATE OF CONNECTICUT,



MAY SESSION, 1871.



PUBLISHED BY AUTHORITY.

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son in this state, and such conservator shall give bond with surety to the judge of said court and his successor in office for the faithful discharge of his trust, and thereupon shall have charge of the estate of such incapable person situated in this state.

SEC. 2. The duties of the conservator so appointed shall be regulated and determined by the act to which this is in addition, so far as it relates to the property of such incapable person situated in this state; except that it shall be lawful for such conservator to sell and convey the estate of such incapable person, whether real or personal, so situated in this state, whenever, upon application by such conservator to such court of probate, it shall find that it will be for the interest of such incapable person that such estate be sold, and shall thereupon order a sale, and said court of probate shall give notice of the time and place of hearing upon such application for appointment of a conservator, and of a sale, by an advertisement published in a newspaper printed in the county where such estate is situated, at least six days before such hearings.

Duties of conservator.

SEC. 3. Such conservator may pay over the proceeds of such sale to the conservator, committee, or guardian, so appointed by virtue of the law of the state where such person resides, and make return thereof to the court of probate, according to the provisions of the seventeenth section of the act to which this is in addition.

Proceeds of sale, how disposed of.

SEC. 4. This act shall take effect from and after its passage.

When this act takes effect.

Approved, June 22d, 1871.

CHAPTER XXXIV.

An Act to provide the City of New London with a supply of pure and wholesome Water.

Be it enacted by the Senate and House of Representatives in General Assembly convened:

SEC. 1. That the mayor, aldermen, common council, and free-men, of the city of New London, be, and are hereby authorized and empowered, in the manner hereinafter prescribed, to take and convey from Lake's Pond, so called, or any other pond or ponds, or streams, in the town of Waterford, or any other town, or from any other source of supply, natural or artificial, in said towns, such supply of water as the necessities or convenience of the inhabitants of said city may require; *provided*, that the rights of the proprietors sustaining damage thereby be paid for by said city, as hereinafter prescribed; and are also hereby authorized and empowered to issue notes, bonds, scrip, or certificates of debt, under the corporate name and seal of the city, bearing interest at no greater rate than seven per cent. per annum, to any amount not exceeding in the whole the sum of one hundred and seventy-five thousand dollars, the principal of which notes, bonds, scrip, or certificates of debt, shall be payable at some certain time or times, within thirty years from the issuing of the same; and said

Provision for supplying New London with water.

Water fund of
the city of New
London.

notes, bonds, scrip, or certificates, shall be denominated the "water fund of the city of New London," and the avails thereof shall be applied and expended, to and for the purpose of supplying said city with pure and wholesome water, according to the mode or plan adopted in pursuance of the provisions of this act, and for no other purpose whatsoever; and said notes, bonds, scrip, or certificates, when issued and delivered by said city, or by its agents thereunto duly authorized, shall be obligatory upon said city and the inhabitants thereof, according to the purport and tenor of the same, in the same manner and to the same extent as debts lawfully contracted by towns in this state. And said city, in a meeting legally warned and held for that purpose, may prescribe the amount for which said notes, bonds, scrip, or certificates, shall be issued, and decide concerning the form thereof, and direct the times and places at which the same, with the interest accruing thereon, shall be payable.

Water commis-
sioners.

SEC. 2. Whenever said city shall have voted to accept this act as a part of its charter in the manner hereinafter prescribed, and also shall have voted to issue notes, bonds, scrip, or certificates of debt, in the manner aforesaid, it shall immediately proceed to elect four persons, as hereinafter prescribed, who, with one person chosen by the court of common council out of their own body, within one week from the time of holding said meeting, and hereafter within one week from the annual election for the choice of city officers, shall act as a board of water commissioners, with powers conferred by this act, until others shall be chosen and sworn in their stead. Said commissioners shall hold their office for two years, provided, however, that the electors of said city, at said first meeting, shall elect two commissioners, who shall hold their office until the next annual city meeting, and two who shall hold their office until the second annual city meeting after their election, and at all subsequent annual meetings of said city, holden for the choice of city officers, there shall be chosen two water commissioners. And the four commissioners who shall be chosen at this meeting shall, with the commissioner chosen by the court of common council as aforesaid, constitute the board of water commissioners until the next annual election for choice of city officers, and until their successors are sworn. And the official term of said board shall date from the second Monday of June in each year. And the persons chosen as water commissioners shall be known as, and called, The board of water commissioners of the city of New London, and have all the powers herein conferred on said board; *provided*, that at said meeting no person shall vote for more than two commissioners, and at all subsequent annual elections for city officers no persons shall vote for more than one of said commissioners.

Vacancies in the
board, how filled.

SEC. 3. All vacancies which shall occur in said board by death, resignation, or by reason of a tie vote at any city election, or in any other manner, shall be filled by the court of common council, at a meeting specially warned and holden for that purpose, within two weeks after said vacancy shall occur; and said court of common

council shall have power, by a two-thirds vote of the whole number of said court of common council, to remove any commissioner for official misconduct.

SEC. 4. The board of water commissioners are empowered to take and hold, for and in behalf of said city, any lands or other estates necessary for the construction of any canals, aqueducts, reservoirs, or other works for conveying or containing water, or for the erection and construction of any buildings or machinery, or for laying any pipes or conductors for conveying water into or through said city, or to secure and maintain any portion of the water works, and in general to do any other act necessary or convenient for accomplishing the purposes contemplated by this act, and to distribute said water through said city in pursuance of the subsequent provisions of this act; to establish public hydrants, to prosecute or defend any action or process at law or in equity, by the name of The board of water commissioners of the city of New London, against any person or persons, or corporation, for the breach of any contract, expressed or implied, relating to the performance of any work or labor upon said water works, or the management of the same, or the distribution of the water, or for money due for the use of the water, or for any injury, or trespass, or nuisance, affecting the water, machinery, pipes, buildings, apparatus, or other things under their superintendence, or for any improper use of the water, or any wasting thereof, or upon any contract or promise made with and to them as water commissioners, or with their predecessors in office; and said board shall be regarded as a corporation for the purpose of suing and being sued.

SEC. 5. Said board are hereby authorized to enter in and upon any land or water for the purpose of making surveys, and to agree with the owner or owners of any property or franchise, which may be required for the purposes of this act, as to the amount of compensation to be paid to such owner or owners for the same. And in case of disagreement between said board and any owner or owners as to such compensation, or as to the amount of damages which ought to be awarded to any person claiming to be injured in his estate by the doings of said commissioners, or in case any owner shall be an infant or married woman, or insane, or absent from the state, or unknown, or the owner of an uncertain or contingent interest, either judge of the supreme court of errors may, on the application of either party, cause such notice to be given of said application as said judge shall see fit to prescribe, and after proof thereof, may nominate and appoint three disinterested persons, not residents of the city of New London, or of the town in which the land under arbitration is located, to examine such property as is to be taken for or damaged by the doings of said commissioners, and they being duly sworn to a faithful and impartial discharge of their duty, shall estimate the amount of compensation which said owners shall receive, and shall report the same in writing to the clerk of the superior court for New London county, to be by him recorded. Said judge of

the supreme court of errors may thereupon confirm the doings of said appraisers, and direct whether said commissioners shall pay the same to said owners, or shall invest or deposit the same in such manner as said judge may prescribe, in full compensation for the property acquired, or the injury done by said commissioners; and on compliance with the order of said judge, said commissioners may proceed with the construction of their works, without any liability to any further claim for compensation or damages.

Commissioners may make use of the soil under highways.

SEC. 6. Said commissioners shall also be empowered to make use of the ground or soil under any road, railroad, highway, street, private way, lane, or alley, within this state, for the purpose of constructing the works contemplated by this act, but shall in all such cases cause the surface of such road, railroad, highway, street, private way, lane, or alley, to be restored to its usual condition, and all damages done thereto to be repaired, and all damages sustained by any person or corporation in consequence of the interruption of travel, to be paid to such person or corporation.

Contracts, how made.

SEC. 7. Said commissioners may make contracts for labor and materials for the general purposes contemplated by this act; and all contracts for materials to be furnished or services to be rendered, shall be in writing, and two originals shall be made of each such contract, which shall be numbered with the same number and endorsed with a summary of the work to be done, or materials to be furnished, and the date of the contract, one of which originals shall be held by said commissioners, and one by the contractor; and no commissioner shall have any pecuniary interest, direct or indirect, in any such contract; and no such contract shall be made unless good and satisfactory security for the faithful performance of the same be given by the contractor at the time of making the same.

Contracts, how awarded.

SEC. 8. Said commissioners shall advertise in one or more newspapers, for sealed proposals for such contracts, and specify times and places, when and where the same are to be received; such proposals shall, in order to be received and acted upon, set forth a specified sum or price to be paid for materials and services, or for either without condition, limitation, or alteration, and shall be accompanied with a bond satisfactory to the said commissioners, conditioned upon the faithful execution of the proposition in the event of the acceptance of the same; and said commissioners shall receive no more than one proposition from the same person or persons for the same contract, but shall reject all which are offered by such person or persons as offer more than one; and no contract shall be assigned without the consent of the said board.

Custody and issue of water fund bonds.

SEC. 9. Said commissioners or board shall be the trustees of the notes, bonds, scrip or certificates of debt issued by said city of New London, and may be authorized by said city to superintend the issuing of the same, and regulate the particular form thereof, and after the same or any part of them shall be issued, said commissioners may sell such notes, bonds, scrip or certificates at public or private sale, at not less than their par value,

or may pledge the same for loans not usurious, and a duplicate record shall be kept by said commissioners of all notes, bonds, or certificates issued, disposed of or pledged in pursuance of the provisions of this act, one copy thereof to be by them delivered to the city treasurer, and all moneys received by said commissioners shall be deposited in one or more of the banks of the city of New London, and shall be drawn out only on the order of the city treasurer.

SEC. 10. It shall be the duty of said commissioners to designate in all orders by them drawn upon the city treasurer, the class to which the same belongs, whether construction account or expense account, and the city treasurer shall pay all such orders from the appropriate funds as established in the foregoing sections of this act. And such commissioners and city treasurer shall give bonds with sufficient surety for the faithful performance of their several trusts, in such sums and shall receive for their services such compensation as the court of common council shall prescribe.

Drawing of orders on the city treasury.

Commissioners and treasurer to give bonds.

SEC. 11. Said commissioners shall superintend the construction of the work, and keep a record of their official proceedings in that behalf, and report to the city at its annual meeting, a general exhibit of the state of the works, including a detailed account of sums required to be expended therefor, and such other matters of information as may be of general interest to the public; and said commissioners shall keep regular books of account, which shall always be open to the inspection of the citizens of New London.

Superintendence and record of the work.

SEC. 12. After the completion of said works, said board shall regulate the distribution and use of the water in all places, and prescribe the purposes to which the same shall be applied. Said commissioners shall establish scales of prices or terms upon which water shall be furnished, and regulate the time or times of payment, and collect all water rents, and shall faithfully account for the same, which prices or rents when so established shall not be reduced below a fair and reasonable compensation for the use of said water, so long as the aggregate of such water rents shall be or by such reduction shall become insufficient to pay the annual expenses of said water works and the interest upon the debt of the city, incurred in building the same, except by a vote of two thirds of the legal voters of the city, at a city meeting specially called for that purpose. And said commissioners shall make such by-laws or regulations for the preservation, protection, and management of the said water works, as may be deemed advisable, and enforce the same by suitable penalties; and when said by-laws or regulations have been approved by the court of common council, they shall be of binding validity; and said commissioners may bring in their own name, actions of debt on such by-laws, to recover any penalty for the breach of the same.

Use of water, and water rates.

SEC. 13. Said commissioners shall keep a register of all persons who use the water, and of the prices by them payable therefor, and shall apply the avails of water rents to the payment of

Disposition of avails of water rents.

the ordinary and current expenses of said water works, such as repairs, the hire of clerks and agents, and of extending pipes into new localities, and shall pay any excess of such avails over the sum requisite for the last mentioned purpose to the city treasurer, on the first Monday of each and every month, on account of water rents received and expended during the preceding month. The account so presented shall be attested by the oath or affirmation of at least one member of the board.

Payment of interest on water fund.

SEC. 14. It shall be the duty of the city treasurer to apply any avails of water rents by him received to the payment of interest on the aforesaid notes, bonds, scrip or certificates of debt; and if there still be an excess, to report the fact to the court of common council, who may direct whether the same shall be applied to the extinguishment of the principal debt incurred by the issuing of said scrip, or to the enlargement of the water works.

Deficiency in avails of water rents.

SEC. 15. In case the avails of water rents in any year shall be inadequate to meet the current expenses of said water works and the interest on said scrip, the deficiency shall be supplied by the laying of a tax on the grand list of all persons liable to city taxation, which said tax shall be estimated by the court of common council in their annual report, and recommended at the annual city meeting; and said meeting shall then lay such tax as may be necessary to meet the aforesaid deficiency; and said city, at any city meeting specially called and holden for that purpose, may lay taxes for the purpose of paying the principal debt aforesaid, or any part thereof, by the establishment of a sinking fund, or in any other proper manner; *provided*, that no greater tax than one mill on a dollar shall be laid at any one time for the purpose of paying said debt, or establishing said sinking fund. And all taxes laid for the purposes above mentioned may be collected in the same manner as other city taxes.

Dues for water rents a lien on the real estate.

SEC. 16. All rents due for water under this act shall be and remain a lien upon the houses, tenements, or lots wherein or in connection with which said water shall have been used by the owner or occupier thereof, which said liens shall have priority over all subsequent incumbrances, and may be enforced and foreclosed by and in the name of said board before the city court of said city, in the same manner as liens of mechanics on lands and buildings are now foreclosed according to the rules of equity; *provided always*, that said lien shall not be perfected unless said board shall, within ninety days after said water rent becomes due, lodge with the town clerk of the town wherein such tenement, lot, or house is situated, a certificate in writing, sworn to by one of said board, of the amount due as near as can be ascertained, and a general description of the premises holden; *provided further*, that the water shall not be introduced into any buildings or premises occupied by a tenant, without the consent of the owner or owners thereof first had and obtained in writing.

Rents for extraordinary use of water.

SEC. 17. Said commissioners may require additional rents for the use of water, whenever extra quantities shall be used exceeding the quantity estimated for the same class of buildings,

establishments, or trades, in the scale of prices by them adopted. And said commissioners shall make no contract for the use of the water for a longer term than two years.

No contract to be made for a term longer than two years.

SEC. 18. A majority of said commissioners shall constitute a quorum for the transaction of any business allowed or required by the powers or duties of said board. And no member of said commission shall be able to act as such until he has sworn to a faithful performance of his duty as such commissioner, and shall give a bond with at least one sufficient surety, in such sum as the court of common council may require conditioned on such faithful performance.

Quorum of the board of commissioners.

SEC. 19. If any person shall willfully and maliciously divert or corrupt the water collected or conducted in any of the ponds or artificial works, contemplated or authorized by this act, or shall willfully and maliciously divert or corrupt any of the sources of said waters with the intent to impair the usefulness of such sources for the purposes aforesaid, or shall willfully and maliciously destroy or injure any dam, pipe, aqueduct, conduit, canal, engine, cistern, hydrant, reservoir, machinery, building, or other property erected, constructed, used or designed to be used for the purpose of procuring or keeping a supply of water for said city, as herein authorized, whether within said city or elsewhere; every such person so offending, on conviction thereof before the court of common pleas, in the county where such offense shall have been committed, shall be punished by a fine not exceeding five hundred dollars or by imprisonment in the county jail not exceeding one year, or by both such fine and imprisonment; and if either such offense shall have been committed within the limits of said city, the police court of said city shall have concurrent jurisdiction of such offense with said court of common pleas; and the city attorney of said city may in such case prosecute the same. And any offender, in either of the cases provided for in this section, shall also be liable to pay treble damages in an action of trespass or action of trespass on the case brought by said board; and if either of the offences aforesaid shall be prosecuted by the city attorney aforesaid in said police court, as hereinbefore provided, then in such case the fine may be payable to the treasurer of said city.

Willful injury to the works or corrupting the water.

SEC. 20. This act shall be to all intents and purposes a public act; and may be altered, amended, or repealed by the general assembly, and the same shall not go into effect until it has been accepted by said city as a part of its charter, at a city meeting warned and holden for that purpose. The mayor of said city shall notify and warn the legal voters thereof to meet at the court house or some other suitable place, within said city of New London, for the purpose of voting upon the question whether they will or will not accept this act as an amendment to the city charter, at which meeting the vote shall be taken by ballot, and the ballots having the word Yes upon the same shall be counted as in favor of the acceptance of this act; and the ballots with the word No thereon shall be counted as

This to be a public act, and to take effect when.

against the acceptance of the same. And if a majority of the votes so given in said city shall be in the affirmative, then this act shall be in full force and become a part of the charter of said city of New London; and unless a majority of votes so given shall at the first meeting warned and held for that purpose be in the affirmative, then this act shall be of no effect. And said court of common council shall determine on the day of voting aforesaid, and the manner of counting said votes and of ascertaining and declaring the final result. The boxes to receive the ballots aforesaid, shall be kept open on such day of voting from nine o'clock in the forenoon till four in the afternoon.

Approved, July 5th, 1871.

CHAPTER XXXV.

An Act in addition to an Act entitled An Act relating to Courts.

Be it enacted by the Senate and House of Representatives in General Assembly convened :

Irregular acts of probate judges validated.

That whenever by reason of the disqualification of any judge of probate, the judge of an adjoining district has acted in the place of such judge so disqualified, without having been cited according to the provisions of the statute, the acts of such judge of such adjoining district shall not on that account be deemed invalid, but shall have the same force and effect as if such citation had been made according to law.

Approved, June 22d, 1871.

CHAPTER XXXVI.

An Act in addition to an Act for the Regulation of Proceedings in Equity.

Be it enacted by the Senate and House of Representatives in General Assembly convened :

Foreclosure of mortgage after the death of the mortgagor, what notice of suit is sufficient.

SEC. 1. Whenever any mortgagee, his assignee or legal representative shall desire to foreclose a mortgage, and the mortgagor shall have been dead one year or more, the mortgagee or his assignee or legal representative, may bring a petition to foreclose the mortgage against the heirs and creditors of the deceased, without any other description of them than that of heirs and creditors of the deceased mortgagor, naming and describing him, and the court to which such petition shall be brought, or either judge of such court in vacation may make such order relative to the notice which shall be given as they shall deem reasonable, and such notice having been duly given and proved, the court may proceed to a hearing at the first term