

ACTS

OF THE

One Hundredth Legislature,

OF THE

STATE OF NEW JERSEY.



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CHAPTER CXCVII.

An act to enable cities to supply the inhabitants thereof with pure and wholesome water.

1. BE IT ENACTED, *by the Senate and General Assembly of the State of New Jersey*, That any city within this state be, and it is hereby authorized, in the manner hereinafter provided, to take and convey from such source or sources as may be practicable, into and through said city, such quantity of pure and wholesome water as may be required for domestic and other purposes by the inhabitants residing within the corporate limits of said city; and to this end, the said city is hereby authorized and empowered, in the corporate name of said city, to purchase of any water company owning water works within said city, which said company is hereby authorized to sell and convey, all the real estate, personal property and works, and all the corporate rights, powers, franchises and privileges of said company, for such sum as may be mutually agreed upon by and between the said city and the said water company; and upon the due execution of the conveyance therefor, the said real estate, personal property and works, and corporate rights, powers, franchises and privileges shall pass to and vest in the said city in as full and ample manner as the same now are or heretofore have been held and enjoyed by the said water company; and that the said city may, in the name and in behalf of said city, purchase, take, hold and enjoy, and convey and dispose of all and such other real and personal estate as may be necessary for the purposes of this act, and may construct and maintain canals, aqueducts, reservoirs, basins, stand pipes, buildings, machinery, and appurtenances of every kind that may be necessary and useful for such purposes, with full power and authority to lay and relay water pipes under any avenue, road, railroad, highway, street, lane or alley within the said city.

Authority and power to purchase and own water works, &c., for the purpose of supplying water, &c.

Proceedings in case of any dis-

2. *And be it enacted*, That in case of any disagreement between the said city and the said water company, or the

owner of any other land or water rights which may be required for the said purposes, or affected by any operation connected therewith, as to the amount of compensation to be paid to the said water company, or to such other owner; or in case any such owner shall be an infant, or a married woman, or non compos mentis, or absent from this state, the circuit court in and for the county wherein said city is situated, shall on application of either party, nominate and appoint three disinterested and competent persons, as commissioners to examine the real estate and personal property of the said water company, or any other land or water rights, and estimate the value thereof, or damages sustained thereby, and who shall, after reasonable notice to the parties of the time and place when and where they will be heard in relation to the matter, and after hearing and examining the parties, and their respective witnesses, under oath or affirmation, and viewing the property, thereupon proceed without delay to make their report thereon, and deliver the same to the said court at the next term thereof which may be held in the said county:

agreement
between
city and
owner or
owners as
to purchase.

3. *And be it enacted*, That whenever such report shall be confirmed by said court, the said city shall, within two months thereafter, in case of no appeal therefrom, or from the determination of said appeal, pay or cause to be paid to the said water company, or to such other owner (as the case may be), or to such person or persons as the said court may direct, the sum mentioned in said report as the value or damages therefor, in full compensation for the real and personal estate of water company aforesaid, or for any other property so required, or for the damages so sustained, as the case may be; and thereupon the said city shall become seized absolutely and in fee of said real and personal estate of the said water company, or of such other property so required, and shall be thence discharged from all further claims by reason of such damage; but no claim shall be made or allowed after the expiration of three years from the time the land is taken or the damage suffered; *provided, however*, that in case the said city, or the said water company, or owner or owners of the said lands or water works, shall be dissatisfied with the report of the said commissioners, and shall apply to the justice of the said circuit court at the same term after the filing of the said report, the court shall have the power, upon good cause shown, to set the same aside, and there-

Proceedings in case of appeal.

Providso.

upon to direct a proper issue for the trial of the said controversy, to be formed between the said parties, and to order, if required, 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 the 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 water works, and damages sustained; and if they shall find a greater sum than the said commissioners shall have awarded in favor of the said owner or owners, then judgment thereon, with costs, shall be entered against the said city, 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 said city shall have offered, or the said commissioners 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; *provided*, that such application to the court shall not prevent the said city from taking the said land upon the filing of the aforesaid report and tender of the sum awarded.

Proviso.

Appoint-
ment of
engineers,
surveyors,
officers,
agents, &c.

4. *And be it enacted*, That it shall be lawful for the said city, by its board of aldermen, council or other legislative body, to elect or appoint any and all engineers, surveyors, officers, agents, employees or committeemen that they may deem necessary or convenient for accomplishing the purposes contemplated by this act, to define their duties, regulate their compensation, and provide for their removal, and that the said engineers, surveyors, officers, agents, employees or committeemen so appointed or elected as aforesaid, are hereby authorized and empowered to enter upon any land or water for the purpose or making any and all surveys and examinations necessary under this act, and at all reasonable hours to enter any dwelling or other place where the water so furnished is taken or used, and where unnecessary waste thereof is known or suspected, and examine and inquire into the cause thereof, and the said engineers, surveyors, officers, agents, employees or committeemen shall have full power to examine all service pipes, stop cocks and other apparatus connected with the water supply or drainage works, for the purpose of ascertaining whether the same are of the character and dimensions, and fixed in the manner

directed by the ordinance or ordinances of the said city regulating the same, and if any person or persons shall refuse to permit such examinations, or oppose or obstruct any such engineers, surveyors, officers, agents, employees or committeemen in performance of such duty, he, she or they so offending shall have the supply of water shut off, until the required examination is made, and such alterations and repairs as may be found necessary shall be completed.

5. *And be it enacted*, That whenever any work to be performed or materials to be furnished under the provisions of this act, may involve an expenditure of any sum exceeding five hundred dollars, the said board of aldermen, council or other legislative body of said city, shall designate a time when they will meet at their usual place of meeting, to receive proposals in writing, for doing such work or furnishing such materials, as the case may be, and shall thereupon order the clerk or some other officer of said city to give notice thereof, by advertisements put up in ten of the most public places of the said city, and by advertising the same in one or more newspapers printed and published in said city, at least two weeks before the time of such meeting, which advertisements shall specify the dimensions and quality of the work to be done, or materials to be furnished; that all such proposals shall be publicly opened in the presence of those who choose to attend, that not more than one proposal shall be received from any one person for the same contract, directly or indirectly, and that said body shall be empowered to reject any or all of said proposals, and to advertise for new proposals, and to accept such as shall in the opinion of a majority of said body be deemed most advantageous for said city; *provided*, the contract for such work and materials, when awarded, shall be awarded to the lowest bidder, and to enter into and compel the performance of all necessary and proper contracts for the doing of such work or furnishing such materials.

Advertisement to be made for proposals for work when expenditure exceeds a certain sum.

Proviso.

6. *And be it enacted*, That all such contracts shall be in writing and of each contract two copies shall be taken, and each copy shall be read before the said body; and if approved by a majority of the whole number thereof, such approval shall be endorsed upon each of said copies by the president of the said body and be by him signed as such president, and then such contracts so approved, endorsed and signed shall be executed by the mayor of the said city

Contracts to be in writing.

How executed.

on behalf of and in the name of the said city, and under the common seal thereof, and that one of said copies when fully executed by the parties thereto, shall be deposited with the treasurer of said city; and that no party shall be allowed to enter upon any work or furnish any material until such contract shall have been so read, approved, endorsed, executed and deposited as aforesaid; and that every person who shall enter into any such contract with the said city, shall give satisfactory security for the faithful performance of his contract according to its terms, with at least two sureties to be approved by said common council.

Contractor
to give se-
curity.

May borrow
money and
issue
bonds.

7. *And be it enacted*, That any of the said cities be and they are hereby authorized to borrow any sum not exceeding eighty thousand dollars, for the purpose of defraying all the expenses and the cost of the purchase of real estate, works and appurtenances of the said existing water company or companies, and of maintaining and extending the same and for the purpose of defraying all the expenses and the cost of such other lands, buildings or water privileges as shall be purchased or taken for the purposes of this act and for the purchase of materials, the laying of pipes and mains in the said city and constructing all works necessary to the full accomplishment thereof and of all expenses incidental thereto, and to secure the payment thereof by issuing bonds under the seal of said city, and the signature of the mayor and other proper officers of said city, bearing interest at the rate of seven per centum per annum, payable semi-annually; that the principal of said debt shall be payable at periods not less than ten nor more than thirty years from date, and the treasurer of said city may dispose of the said bonds at either public or private sale for the best price that can be obtained, but at not less than their par value; that record of all said bonds so issued and disposed of shall be kept by the said treasurer, and all moneys received therefrom shall be deposited by said treasurer in any bank or banks to be designated from time to time by a majority of said common council, and shall be drawn upon by said treasurer for the purposes of this act solely, and for none other, and only when said treasurer shall be so ordered by proper warrant or warrants issued by said board of aldermen, council or other legislative body of said city.

Treasurer
to keep reg-
ular books
of account.

8. *And be it enacted*, That the treasurer of said city shall keep regular books of account, containing the receipts and

expenditures under this act, and all such books shall be open at all times to the examination of any member of the legislative body of said city and of any person or persons appointed by said body for that purpose; that the said treasurer shall once at a time fixed by said body, in each and every year, make a detailed statement to the said body of such receipts and expenditures, an abstract of which shall be published with the annual statement of said treasurer.

Annual statement to be made.

9. *And be it enacted*, That the said board of aldermen, council or other legislative body of said city shall have the power and they are hereby authorized to make, ordain and establish, all such ordinances, resolutions and regulations as said body may deem necessary and proper for the distribution, supply, use and protection of the said water and the safety, security and protection of the buildings, machinery, canals, aqueducts, reservoirs, and other works and appurtenances thereto, and for fixing and collecting the water rents or prices for water, and for imposing penalties in addition to cutting off the water for the non-payment thereof, and that they may erect such number of public hydrants and fire plugs, and in such places as they shall see fit, and direct in what manner and for what purposes the same shall be used.

Authorized to make rules and regulations.

10. *And be it enacted*, That the owner and occupier of any house, tenement, building or lot, shall each be liable for the payment or the price or rent as fixed by the said board of aldermen, council or other legislative body of said city for the use of the water by such owner or occupier, and such price or rent so fixed shall be a lien upon said house, tenement, building or lot, until the same shall be paid and satisfied; that said body shall have authority to require payment in advance for the use or rent of water furnished by said city in or upon any building, place or premises, and in case prompt payment of any water rent or rents shall not be made when the same become due, the water shall be shut off from such building, place or premises, and shall not be again supplied to said building, place or premises until such arrears with interest thereon shall be fully paid, and it shall and may be lawful for the said body to give notice for one month, by advertisements in a newspaper printed and published in said city, requiring the owners or occupants of such houses, tenements or lots to pay such water rents so remaining due and unpaid thereon, and if the same are not paid, such houses, tenements and lots will be sold at public auc-

Water rents to be a lien.

May require payment in advance.

tion, at a day and place to be specified therein, for the lowest term at which any person will offer to take the same in consideration of paying the amount of the water rent, with interest thereon due on the same, and the expenses of such advertisement and sale, and if, notwithstanding such notice, the owners or occupants shall refuse or neglect to pay such water taxes and the interest thereon and the expenses of the said advertisement, then it shall be lawful for the said body to cause such houses, tenements or lots to be sold at public auction for a term for the purposes and in the manner expressed in said advertisement, and to give a declaration of such sale to the purchaser thereof, under the common seal of the said city, and such purchaser, his executors, administrators or assigns shall, by virtue thereof and of this act, lawfully hold and enjoy the same for his and their own proper use against the owner or owners thereof, claiming under him or them, until his term shall be complete and ended; and that such purchaser shall be at liberty, at or before the end of his term, to remove the buildings and materials erected and placed by him thereon, taking care to leave the same in as good order and condition as when it came into his possession; and in addition to the remedies above provided, all water rents due, or to become due to the said city, may be collected and recovered in the name of the treasurer of said city in an action of debt, or, on the case, before any court of competent jurisdiction, against any person chargeable therewith.

When empowered to charge owners of any building as for a single hydrant.

11. *And be it enacted*, That the board of aldermen, council or other legislative body of said city, be and they are hereby authorized and empowered by ordinance to charge the owners of any and every building erected along the line of any street, road, lane or alley in said city, in which any water pipe shall be laid by order of said common council, and shall not have the water introduced on the premises, a water rent not exceeding the rent charged by said city for a single hydrant, and collect the same in the manner hereinbefore provided for, for the collection of water rents in arrears.

Moneys for water rents how applied.

12. *And be it enacted*, That such portions of the moneys received from the water rents or prices paid for the use of water, and interest on arrears of water rents, as may remain after paying all expenses for constructing and maintaining the works and raising and distributing the water and salaries, wages and incidental expenses and charges, shall be applied

by said body, first to the payment of the interest upon the debt created for the construction of the works, and next to the purchase of the bonds issued therefor, if the same can be obtained at reasonable rates, or if that cannot be effected, then to be safely invested by commissioners of the sinking fund of the said city, if any there be, and if none, then by the said legislative body, and allowed to remain as a sinking fund, to be applied to the payment of the bonds at maturity.

13. *And be it enacted*, That the said board of aldermen, council or other legislative body of said city shall, on before a certain day in each year, to be fixed by said body, by a committee to be appointed from the members thereof, cause a careful estimate to be made of the interest on the water debt and cost of managing and keeping in repair and operation of the works for the ensuing year, and of the amount to be received during the same year for the use of water and water rents, and of the deficiency, if any, of such receipts for the payment of such expenditures, and such committee shall report the same in writing to said body, and said deficiency said city shall raise by tax as other city taxes are assessed, levied and collected, and said body shall, in case of any estimated deficiency, furnish a copy of such report to the board or officer who by law is required to make assessments of taxes in said city.

Proceedings in case of receipts are less than expenditures.

Deficiency to be raised by taxation.

14. *And be it enacted*, That it shall be the duty of the said board or other officers of said city to add to the sum so reported three per centum to cover losses and contingencies, and to assess such sum so increased upon all the taxable property in said city in the same manner as other taxes are assessed, and said taxes shall be collected by the collector and other officers of said city, who are by law required to collect taxes, and if not paid at the time required by law for the payment of other city taxes, shall be collected by warrant and by and in the same manner as other city taxes are collected in said city, and shall be a lien upon the property whereon the same are assessed in like manner.

May assess additional sum to cover losses, &c.

15. *And be it enacted*, That if any person or persons shall maliciously or wilfully divert the water or any portions thereof from the said works, or shall pollute, corrupt or render impure the water in any reservoir, aqueduct, conduit or raceway erected, built or laid down under the provisions of this act, or shall destroy or injure any engine, machine, reservoir pipe, fire plug, hydrant or structure whatsoever, or

Penalty for injury to property or works.

other property used or required for procuring or distributing the water whereby the same may be obstructed or stopped, or shall wilfully or maliciously draw off or waste the water from any fire plug or hydrant, such person or persons and their aiders and abettors shall forfeit to the said city, to be recovered in the name of the treasurer of said city, in an action of trespass, in any court in this state having cognizance of the same, triple the amount of damages which shall appear on trial to have been sustained, and all such acts are hereby declared to be misdemeanors, and the parties found guilty thereof may be further punished by fine not exceeding five hundred dollars, or by imprisonment at hard labor, not exceeding one year, or both, at the discretion of the court.

Provisions of act to remain inoperative in any city until assented to by a majority of the legal electors thereof.

16. *And be it enacted*, That this act shall take effect immediately, but its provisions shall remain inoperative in any city in this state until assented to by a majority of the legal electors thereof voting at an election to be held in said city at any time to be fixed by the board of aldermen, council or other legislative body of said city, of which election the city clerk of said city shall cause public notice of the time and place of holding the same to be given by advertisements signed by himself, and set up in at least twenty public places in said city, and published in one or more newspapers printed therein, for at least six days previous to the day of such election; and said clerk shall provide for each elector voting at such election, ballots, to be printed or written, or partly printed and partly written, on which shall be either the words "for the adoption for this city of the provisions of an act entitled 'An act to enable cities to supply the inhabitants thereof with pure and wholesome water,'" or "against the adoption for this city of the provisions of an act entitled 'An act to enable cities to supply the inhabitants thereof with pure and wholesome water,'" that the polls for such election shall be held at the usual places of holding the annual charter election in said city, and shall be opened at seven o'clock in the forenoon, and closed at seven o'clock in the afternoon, and such election shall be conducted by the proper election officers of said city for the time then being, and in the manner as may then be prescribed by the ordinance of said city regulating elections therein, and such officers shall return to the board of aldermen, council, or other legislative body of said city, a

true and correct statement, in writing, under their hands, of the result of said election, the same to be entered at large upon the minutes of said body.

Approved April 21, 1876

CHAPTER CXCVIII.

An act relating to public printing.

1. BE IT ENACTED *by the Senate and General Assembly of the State of New Jersey*, That the constitution of the state of New Jersey, as adopted and ratified in the year eighteen hundred and forty-four, and the amendments thereto in eighteen hundred and seventy-five, be printed and published in the annual volume of the laws of New Jersey for the year eighteen hundred and seventy-six, the same to be printed separately and not incorporated together; and that said constitution and amendments in said volume, precede the legislative list now required to be printed by law.

Constitution and amendments to be printed separately.

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

Approved April 21, 1876.

CHAPTER CCIII.

An act to authorize the corporate authorities of cities and towns to drain meadow and swamp lands lying within their corporate limits.

1. BE IT ENACTED *by the Senate and General Assembly of the State of New Jersey*, That the corporate authorities of any town or city having within its corporate limits any meadow

May contract for drainage, &c.