

ACTS

OF THE

SEVENTY-EIGHTH LEGISLATURE

OF THE

STATE OF NEW JERSEY,

AND

TENTH UNDER THE NEW CONSTITUTION.



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CHAPTER CLXV.

A further supplement to "An act to authorize the construction of works for the supplying of Jersey City and places adjacent, with pure and wholesome water," approved March twenty-fifth, eighteen hundred and fifty-two.

WHEREAS, the "Water Commissioners of Jersey City" were ^{Preamble.} by law instructed to cause such surveys and examinations to be made as should be found necessary to enable them to decide upon and recommend a suitable plan for a general system of sewers for the district proposed to be supplied with water, and to estimate the probable cost of such sewers, and the said surveys and examinations having been made, and the plan and estimates of the proposed works having also been made and submitted to the mayor and common council of Jersey City, and been by them approved; and they having asked for the enactment of a law to authorize the construction of works for draining Jersey City, and for other purposes; therefore,

1. BE IT ENACTED *by the Senate and General Assembly of* ^{Commissioners authorized to construct works.} *the State of New Jersey,* That the "Water Commissioners of Jersey City," appointed by and elected in conformity with the provisions of "An act to authorize the construction of works for supplying Jersey City and places adjacent with pure and wholesome water," approved twenty-fifth of March, eighteen hundred and fifty-two, and their successors in office, are hereby authorized and empowered to construct the canal and locks and sewers and drains described in the beforementioned plan and report, with such changes or alterations as may be found convenient or necessary in the progress of the work, and at such times as the mayor and common council shall decide that the several parts are required for the benefit or convenience of the citizens or the promotion of the public health.

2. *And be it enacted,* That for the purpose of constructing the canal and locks, or any other works required for the drain-

Commissioners authorized to take lands by appraisal.

age of Jersey City by the beforementioned plan, except such as may be constructed in the streets, avenues, lanes or alleys, or in public grounds belonging to the corporation of said city, the water commissioners shall have the right to take by appraisal and hold any lands or other real estate in their opinion required therefor, in the same manner and upon the same terms and conditions that they were authorized to acquire and hold the lands necessary for the Jersey City water works.

3. *And be it enacted*, That when application shall be made to the mayor and common council of Jersey City to have a sewer or drain made or constructed in any street, avenue, lane or alley in said city, the same preliminary proceedings shall be had in relation thereto as are now authorized and directed by the charter, when applications are made for the construction of sewers; and if the mayor and common council, after considering the application and objections thereto, if any are made, shall decide that the sewer or drain applied for ought to be constructed, they shall give notice in writing of such decision to the water commissioners, who shall thereupon proceed and construct the said sewer or drain, and connect therewith the drain pipes required for draining the adjacent streets, the whole to conform in all essential particulars to the beforementioned plan.

Assessment of works.

4. *And be it enacted*, That when any sewer and the drain pipes and other work connected therewith shall be completed, the water commissioners shall ascertain the whole cost thereof, and the number and sizes of all lots or separate parcels of ground drained thereby, and shall fix the amount to be paid for each, in proportion to their dimensions, without reference to their situation or value; and to the whole ascertained cost the commissioners shall add interest at the rate of seven per cent. per annum upon all payments made on account of the work during its progress, from the time of payment until thirty days after the first publication of the notice hereinafter directed, and such interest shall be added to and constitute a part of the cost of the work; and when the proportion of the whole cost chargeable to each lot or parcel of ground is ascertained in the manner before directed, public notice shall be given by an ad-

vertisement, containing a full statement thereof, which shall be inserted one week in each newspaper printed in Jersey City, and notice shall also be given in the same manner of the place where payment will be received, if tendered within thirty days next succeeding the date of such notice.

5. *And be it enacted*, That if any part of the assessment directed in the preceding section shall remain unpaid for a longer time than thirty days after the publication of the notice above directed, the water commissioners (if they shall deem such proceeding proper) may, at the request of the owner or owners of the whole or any part of the property affected by said canal, or by any sewer or drain or works connected therewith, divide the sum assessed, for the cost of constructing the same into any number of equal sums or parts not exceeding five; one of which sums or parts, together with interest accrued thereon, at the rate of seven per cent. per annum, shall become due and payable at the end of each succeeding year after the expiration of said thirty days, until the whole amount be paid; and they shall make a record of the whole matter in a book to be provided and kept for that purpose in their office, and shall furnish to the owner or occupant of the premises thus charged, a written statement thereof; the cost and interest thus ascertained shall constitute a lien upon the property affected thereby; and if any one of the aforesaid parts or sums due upon any lot or parcel of ground, shall remain unpaid thirty days after the same is due and payable, the water commissioners shall make out and deliver to the mayor and common council of Jersey City an account thereof, and certify that the same remains due and unpaid, and the mayor and common council shall thereupon order and direct the collector of arrears of taxes and assessments to proceed and collect the amount due in the same manner that arrears of taxes and assessments are collected, and with interest thereon at the same rate; *provided however*, ^{Payment of assessments.} that the whole amount of assessment due upon any lot or parcel of property, may be paid at any time previous to the expiration of the term fixed by said commissioners, in which case an abatement equal to seven per cent. per annum for the unexpired terms of the several amounts outstanding, shall be allowed. ^{Proviso.}

Canal to be a public highway.

6. *And be it enacted*, That the canal hereinbefore mentioned, and which forms a part of the plan for the drainage of Jersey City, shall, when made, be held to be a navigable canal and public highway for the transportation of passengers, goods, wares, merchandise and produce, or freight of any kind whatsoever, on payment of the tolls and conforming to the regulations made or authorized to be made by this act; and the water commissioners of Jersey City shall have power to employ engineers, collectors, lock tenders and all such officers and agents as they may find necessary for the proper management thereof, and shall have power to charge and collect tolls or rates for the passage of all boats or vessels into the same, and for the transportation of all passengers, goods, wares, merchandise or produce or freight of any kind transported thereon; and the said commissioners shall have power, at their pleasure, to charge such tolls or rates, and to enact such rules and regulations for levying and collecting the same and for the preservation and management of the canal and works connected therewith, as they may deem necessary and proper; *provided*, the tolls so levied and collected shall not in any case exceed five cents per ton for the burthen of each boat or vessel, and five cents per ton for the freight transported thereon, or landed upon or shipped from its banks.

Proviso.

Commissioners to erect bridges.

7. *And be it enacted*, That wherever the said canal shall cross any railroad, turnpike road, street or public highway, it shall be the duty of said water commissioners to cause good and sufficient bridges to be erected and maintained whenever by them deemed necessary; *provided*, that if said canal shall be cut through or under any existing railroad, the plan or plans for that part of the work affecting the road, shall be submitted to and approved by the directors of the company owning such road, and when so approved the same shall be built in accordance with the plan so approved and agreed upon, and said water commissioners shall pay to said company all damages and expenses which may be occasioned by building said canal; *and provided further*, that nothing herein contained shall authorize, without the consent of such railroad company, the erection of any drawbridge through the road

Proviso.

Proviso.

now owned by the New Jersey Railroad and Transportation Company.

8. *And be it enacted*, That if any person or persons shall ^{Penalty for} in any manner wilfully or maliciously destroy, injure, or ^{injuring works} obstruct said canal or the navigation thereof, or any of its parts, or any works connected with the same or with the drainage of Jersey City, or shall unnecessarily or maliciously open any gates belonging thereto, or otherwise let off or waste the water, to the injury of any part of the said works, or shall in any way hinder or impede any of the operations intended to be accomplished thereby, he, she or they so offending shall be considered guilty of a misdemeanor, and on being convicted thereof shall be punished by fine or imprisonment, or both, at the discretion of the court in which such conviction shall be had; *provided*, such fine shall not exceed the sum of fifty ^{Proviso.} dollars, nor the imprisonment the term of one year; and such criminal prosecution shall in no wise impair the right of action for damages by a civil suit which may be brought by the water commissioners of Jersey City.

9. *And be it enacted*, That before the canal which forms a ^{Survey of} part of the aforesaid plan for draining Jersey City shall be ^{route of canal} made or commenced, the water commissioners of Jersey City ^{to be filed.} shall cause the route for the same to be carefully surveyed and distinctly marked, and a correct map made thereof, and shall obtain detailed estimates of the probable cost of constructing the same; and the said water commissioners shall give public notice by an advertisement published at least two weeks in all the newspapers printed in the county of Hudson, of the time at which they will present certified copies of the said map and estimates to the circuit court, at a regular session thereof, to be held in and for the county of Hudson, and ask for the appointment of the commissioners hereinafter directed; and the said court, after receiving and considering the said map and estimates, and hearing the parties interested in the matter, shall appoint three judicious, disinterested men, not residents of the county of Hudson, as commissioners to apportion and assess the estimated cost of said canal upon all such real estate lying

in Jersey City, or adjacent thereto, as will in their opinion be benefitted thereby.

Commissioners to give notice of meeting.

10. *And be it enacted*, That the commissioners so appointed shall give public notice to all concerned of the time and place at which they will meet for the purpose of performing the duties herein directed, by causing the same to be published at least two weeks in each newspaper printed in the county of Hudson; and they shall personally examine the route of the proposed canal surveyed and marked as hereinbefore directed; and after hearing such parties as claim to be interested therein, and considering all matters relating thereto, shall make out and present to said court a report, in writing, containing a list of all such lands as in their opinion ought to be assessed for the payment of the cost of the said canal, and the proportion of the whole cost which ought to be charged to each separate parcel thereof.

Collection of assessments for canal.

11. *And be it enacted*, That if the report so made and presented shall be approved and confirmed by the said court, the county clerk of the county of Hudson shall give notice thereof to the water commissioners of Jersey City, by delivering to them a certified copy of said report, with the action of the court in relation to the matter endorsed thereon; and the said water commissioners shall, on a receipt thereof, be authorized to proceed and construct the said canal; and when completed shall ascertain the whole cost of the same, and collect the amount so ascertained from the owners of the land described in the report of the commissioners of appraisement, and in the proportions fixed therein, together with the legal interest accruing thereon from the time the amount is ascertained until the day of payment; and if the whole, or any part of the sum or sums so ascertained and assessed, shall remain unpaid for a longer time than thirty days after the date of a notice to be published by said water commissioners that the canal is completed and payment is due therefor, the same measures shall be pursued to enforce the payment thereof, as are directed in the fourth and fifth sections of this act, to enforce the payment of assessments due for the construction of sewers.

12. *And be it enacted*, That for the security and proper

management of the Jersey City water works and drainage works, and to prevent the waste or improper use of water, the water commissioners of Jersey City shall have power to make such by-laws, rules and regulations respecting the introduction of Passaic water into houses, tenements and manufactories, or other places where the same may be required, and may from time to time regulate the use thereof in such manner as shall seem to them necessary and proper; and also to fix and determine of what sizes and forms and of what materials and in what manner private drains shall be laid and connected with the sewers or drain pipes in the streets or thoroughfares in the city, and may fix the penalties to be recovered for breaches or evasions of all such rules; *provided*, such rules, regulations and by-laws are not inconsistent with the constitution and laws of the state of New Jersey, or of the United States, and that the penalty imposed in any one case shall not exceed the sum of fifty dollars.

Commissioners to regulate use of water.

Proviso.

13. *And be it enacted*, That the water commissioners of Jersey City and all engineers, superintendents or inspectors in their service are hereby authorized and directed to enter at all reasonable hours any dwelling or other place where Passaic water is taken or used, and where unnecessary waste thereof is known or suspected, and examine and inquire into the cause thereof; and the said commissioners, engineers, superintendents and inspectors 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 in the permits issued therefor; and if any person or persons shall refuse to permit such examinations, or oppose or obstruct such officer in the performance of such duty, he, she or they so offending shall be liable to such penalty, not exceeding ten dollars for each offence, as the water commissioners may impose, and the supply of water shall also be shut off until the required examination is made and such alterations and repairs are completed as may be found necessary.

Commissioners may enter dwellings, &c. in case of waste.

14. *And be it enacted*, That if any person shall place any

Penalty for placing obstructions.

stones, bricks, lime, sand, lumber, or any other article, in such situation in any street, avenue, lane, or alley, as to prevent access to any water pipe, stop-cock or fire hydrant belonging to the Jersey City water works, or to any man-hole, side culvert, or gully of any sewer, or drain, or in such situation as to interfere with the regular action of such works, the owner or owners of such materials shall forfeit and pay for each offence the sum of twenty-five dollars, and ten dollars for each day such articles are suffered to remain in such situation after written notice from the water commissioners to remove the same.

Fines, how recovered.

15. *And be it enacted*, That all fines, forfeitures and penalties imposed by or under authority contained in this act, may be sued for and recovered by an action of debt, instituted in the name of the "Water Commissioners of Jersey City," before any justice of the peace in and for the county of Hudson, or in any other court having cognizance in similar cases.

Commissioners authorized to borrow money.

16. *And be it enacted*, That for the purpose of constructing the drainage works hereinbefore mentioned, and extending the Jersey City water works from time to time as may be required within the corporate limits of Jersey City, the water commissioners of Jersey City shall have authority to borrow at such time or times as they may deem expedient, the sum of one hundred thousand dollars, such loan or loans to be made on the same terms and conditions and under the same limitations as are prescribed in the eleventh section of the "Act to authorize the construction of works for supplying Jersey City and places adjacent with pure and wholesome water," approved twenty-fifth March, eighteen hundred and fifty-two, and an amendment thereto, approved eighteenth January, eighteen hundred and fifty-three.

Disposition of moneys received.

17. *And be it enacted*, That all tolls received for the use of the beforementioned canal, and all interest, rents, fines, forfeitures, and all profits and income of every description had or received from or on account of said canal, or any of the works for the drainage of Jersey City, and all sums received for the construction of sewers, or for drain pipes or other work connected therewith, shall be applied by the water commissioners,

first, to the payment of salaries, wages, the cost of repairs and other expenses necessary for keeping the whole in good order and successful operation; next, to the payment of interest upon the debt created for the construction of the works; and such balance as may remain after paying the current expenses and interest, as above directed, shall be appropriated to the purchase of bonds authorized by the sixteenth section of this act; *provided*, the same can be obtained at reasonable rates, Proviso: or if that cannot be effected, then to be safely invested and allowed to remain as a sinking fund, to be applied to the redemption of the bonds at their maturity; and after all the script, or bonds, or other evidences of debt, issued on account of said canal and drainage works, shall be fully paid and cancelled, all moneys remaining after making the payments above specified, shall, by the said water commissioners, on the first Tuesday of each and every month, be paid to the treasurer of Jersey City; and such payments shall be accompanied by written statements showing the whole amount of money received during the preceding month, specifying from whom and for what the same was received; and also an account of all moneys paid during the month, specifying to whom and for what they were paid.

18. *And be it enacted*, That the commissioners shall keep regular books of sewerage accounts, and books for recording the whole of their official proceedings in relation to the drainage works; and all such books and records shall be open to the examination of any person or persons appointed for that purpose by the mayor and common council of Jersey City; and the commissioners shall also on the first Tuesday in January, and the first Tuesday in July of every year, make a written report to said mayor and common council of the condition of the drainage works under their charge, together with a statement of their receipts and expenditures on account of the same. Books of account, &c., to be kept.

19. *And be it enacted*, That for the purpose of effectually executing and carrying out the plan of sewerage and drains, adopted as hereinbefore indicated, that so much of the twenty-second section of the act to authorize the construction of Parts of former act repealed.

works for supplying Jersey City and places adjacent with pure and wholesome water, approved twenty-fifth of March, eighteen hundred and fifty-two, as directs the manner in which the cost of constructing sewers shall be assessed and collected, and all such parts of the charter of Jersey City, approved March eighteenth, eighteen hundred and fifty-one, and all such amendments thereto as relates to the alteration of the grade of streets, and all other parts of said charter or the amendments thereto, as contravene or are inconsistent with the true intent and meaning of the provisions of this act, be and the same are hereby repealed ; but such repeal shall not affect any proceedings had or commenced under the same, nor any right or remedy accrued or accruing in virtue thereof at the time this act takes effect.

Public act. 20. *And be it enacted*, That this act shall be deemed a public act and shall take effect immediately.

Approved March 16, 1854.

CHAPTER CLXVI.

A further supplement to the act entitled "An act to incorporate the Sussex Mine Railroad Company," approved March ninth, eighteen hundred and forty-eight.

Company may construct branch road. 1. BE IT ENACTED *by the Senate and General Assembly of the State of New Jersey*, That it shall be lawful for "The Sussex Railroad Company," and the said company is hereby authorized and empowered to construct a branch railroad from some suitable point in the line of their present railroad, in the township of Newton, in the county of Sussex, to the Delaware river, in the county of Warren, with power to construct a bridge across said river, by and with the consent of the state