

ACTS

OF THE

EIGHTY-FOURTH LEGISLATURE

OF THE

STATE OF NEW JERSEY,

AND

SIXTEENTH UNDER THE NEW CONSTITUTION.



PATERSON, N. J.:

**PRINTED BY ANDREW MEAD,
1860.**

CHAPTER CLXIX.

AN ACT to authorize the mayor and common council of the city of Newark to purchase the property of the Newark Aqueduct Company, and creating the Newark Aqueduct Board.

Preamble.

WHEREAS, by an act of the legislature of the state of New Jersey, passed November seventeenth, eighteen hundred, entitled "An act to incorporate the Newark Aqueduct Company," certain persons therein named were created a body corporate and politic, by the name of the president and directors of the Newark Aqueduct Company, for the purpose of supplying the town of Newark with pure and wholesome water, by virtue of which act, and of a supplement thereto, the said company have purchased lands and erected works for the purpose aforesaid; and whereas, the great increase of the business and population of Newark, and its creation into a city with corporate powers and duties, and the inadequacy of the supply of water now furnished by the said company to answer the wants of the said city, have rendered it expedient that the duty of supplying the said city with pure and wholesome water for all purposes, should be undertaken and carried forward by the city authorities, and that the property, rights and franchises of the said "The Newark Aqueduct Company," should be purchased from them by the mayor and common council of the city of Newark, and a preliminary proposition to that effect having been agreed upon by the said parties; now, therefore,

President and directors of company authorized to convey property to city.

1. BE IT ENACTED *by the Senate and General Assembly of the State of New Jersey*, That upon the securing to be paid by the mayor and common council of the city of Newark, according to the terms of said proposition, of the purchase money or price therein mentioned, the board of directors of

the said the president and directors of the Newark Aqueduct Company shall forthwith, without further consideration, assign, transfer and convey to the mayor and common council of the city of Newark all the rights, franchises, lands, property, real and personal, of every kind and description, to said company belonging or in them vested, or to which they are entitled, and all the capital stock of said company in said proposition mentioned; and said board are hereby fully authorized and empowered to make such transfer, assignment and conveyance, and the same, when so made, shall be complete and effectual for the transfer, assignment and conveyance to the said the mayor and common council of the city of Newark, as well of said capital stock as of said rights, franchises, lands and property; and all certificates of said capital stock shall be forthwith, on such transfer, delivered up to the treasurer of said city, and from the time of said transfer said certificates shall have no validity in the hands of any person or persons other than the said the mayor and common council of the city of Newark.

2. *And be it enacted*, That the said mayor and common council are hereby authorized to accept the said property, the same to be held as is hereinafter directed, and to take and convey from the sources of supply now used by the said Newark Aqueduct Company, or which they are empowered to use, and from any other sources, sufficient water to supply the city of Newark with pure and wholesome water for all purposes.

3. *And be it enacted*, That all authority under this act shall be exercised by a board of commissioners to be known and designated as "The Newark Aqueduct Board," to be appointed as is hereinafter designated; and in pursuance of this authority the said commissioners may employ all proper engineers, surveyors, clerks and other agents or assistants necessary or convenient for accomplishing the purposes contemplated by this act, and may enter upon any land or water for the purpose of making surveys and examinations for the same.

Mayor and common council authorized to receive property.

Authority to be exercised by commissioners.

First board of
commission-
ers.

4. *And be it enacted*, That William S. Faitoute, Daniel Dodd, Thomas R. Williams, Edward Doughty, Jacob Van Arsdale, Henry G. Darcy, and the mayor of the city of Newark ex officio, shall constitute the first board of commissioners; the said "The Newark Aqueduct Board" shall elect annually one of their number to be president of the board, may make by-laws and regulations for their government, not inconsistent herewith, and shall determine by lot or otherwise the terms during which the members of said board, other than the mayor, shall hold their offices, and these shall be as follows: two of them shall remain in office one year, two two years, and two three years, all to be computed from the first Tuesday after the first day of January next; and the mayor of the city of Newark for the time being, shall, ex officio, always be one of said board.

Acts of board
to be binding
on city.

5. *And be it enacted*, That a majority of the said board shall constitute a quorum for the transaction of business, and all contracts and engagements, acts and doings of the said board within the scope of their duty or authority, shall be obligatory upon, and be in law considered as done by the mayor and common council of the city of Newark; and the said mayor and common council, and all real estate within the city of Newark, shall be liable for the payment of the principal and interest that may become due on the bonds or obligations to be issued by virtue of this act.

Board may
bring actions.

6. *And be it enacted*, That the said "The Newark Aqueduct Board," may prosecute any action or process, at law or in equity, 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 or trespass or nuisance done or caused, or procured to be done to the water courses, 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 any vacancy in said board, either before or after any

cause of action arises or suit is commenced, shall not change the right of said board as a body to commence or maintain such action or process at law or in equity; but in all such cases they shall be considered from the time of the organization of the board, as a corporation.

7. *And be it enacted*, That the said board shall keep regular books of account, and books for recording the whole of their official proceedings; each of the members of said board shall, within forty days after the first Tuesday after the first day of January next succeeding his election, take and subscribe the oaths of office prescribed by the twenty-fourth section of the act entitled "An act to revise and amend the charter of the city of Newark," approved March eleventh, eighteen hundred and fifty-seven, and in case of his failure so to qualify, his said office shall be deemed vacant; such books shall be open to the examination of any person or persons appointed for that purpose by the mayor and common council of the city of Newark; said board shall also, on the first day of June and December in each year, make a report to the said mayor and common council of the condition of the works under their charge, and of the receipts and expenditures on account of the same; and the said board may, in their discretion, require from the persons employed by them official bonds for the faithful performance of their duties, and that they shall take and subscribe the oaths of office as aforesaid.

8. *And be it enacted*, That the said board shall, for and in the name of the mayor and common council of the city of Newark, take and hold the lands and real estate, rights, franchises and property of every kind so purchased from and transferred by "The Newark Aqueduct Company," as aforesaid, and any other lands, real estate or property necessary in their opinion for the construction of any canals, aqueducts, reservoirs or other works for conveying or containing water, or for the erection of any buildings or machinery for laying any pipes or conduits for conveying the water into or through the said places, or to secure and maintain any portion of the

Books of account to be kept.

Board to hold property conveyed to city.

works, and in general to do any other act necessary or convenient for accomplishing the purposes contemplated by this act.

Proceedings in
case board and
owners can
not agree.

9. *And be it enacted*, That in case of any disagreement between the said board and the owners of any lands 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 such owner, or in case any such owner shall be an infant, or a married woman, or insane, or shall be absent from this state, the circuit court of the county of Essex shall, on the application of either party, or in case any such owner shall be unknown, or cannot be found, then upon notice of such application, to be given as said court may direct, nominate and appoint three disinterested persons to examine such property and estimate the value thereof, or damage sustained thereby, who shall, after reasonable notice to the parties, or notice to be advertised as said court may direct, of the time and place where they will be heard in relation to the matter, proceed without delay to hear the same and make their report thereon, and deliver the same to the court at the next session thereof which shall be held in the said county.

Payment of
damages.

10. *And be it enacted*, That whenever such report shall be confirmed by the court aforesaid, the said board shall, within two months thereafter, pay to the said owner, or to such person or persons as the court may direct, the sum mentioned in said report, in full compensation for the property so required, or for the damage sustained, as the case may be; and in all cases where the title or interest of any person or persons in lands required and taken for the purpose of this act, is doubtful or disputed, the value of or damage to such lands, awarded by the commissioners appointed by said circuit court, may be paid into said court, upon affidavit made of such facts, and such payment shall have the same effect as if made to the owners thereof; and the said court may proceed in a summary way, upon petition of any person claiming to be the owner of said lands, or any part thereof, to ascertain to whom

the title belonged, and to what person or persons the said money shall be paid, and shall have power to distribute the same among the persons entitled thereto, and thereupon the mayor and common council of the city of Newark shall become seized in fee of such property so required, and shall be discharged from all claim by reason of such damage.

11. *And be it enacted*, That the said board, in behalf of the mayor and common council of the city of Newark, and all persons acting under their authority, shall have the right to use the ground or soil under any road, railroad, highway, street, lane, alley, or court within this state, for the purpose of constructing, enlarging, improving, or repairing the works contemplated by this act, on condition that they shall cause the surface of such road, railroad, highway, street, lane, alley, or court to be restored to its original state, and all damages done thereto to be repaired.

Roads may be used for purposes of aqueduct.

12. *And be it enacted*, That all contracts for materials, or for the construction of any part of said work, which shall involve the expenditure of the sum of five hundred dollars or more, shall be made in writing, and of each contract two copies shall be taken, which shall be numbered with the number of said contract, and endorsed with the name of the contractor, and a summary of the work to be done or materials furnished; one of said copies shall be deposited with the auditor of accounts of the city of Newark, and one shall be retained by said board; the said board shall have authority to require from any person or persons with whom they shall enter into a contract, satisfactory security for the faithful performance of said contract according to its terms, and no member of said board shall be interested, directly or indirectly, in any contract relating to said work.

Contracts to be made in writing.

13. *And be it enacted*, That all materials procured, or partially procured, under contract with said board, shall be exempt from execution, but it shall be the duty of the board to pay the moneys due to such contractor for such materials, to the judgment creditor of the contractor under whose execution such materials might otherwise have been sold, upon his

Materials to be exempt from execution.

producing to them due proof that his execution would have so attached, and such payment shall be held as a valid payment on the contract.

Board may issue bonds for payment of cost of property.

14. *And be it enacted*, That for the purpose of paying the cost of purchasing the capital stock and property as aforesaid of "the Newark Aqueduct Company," the said "the Newark Aqueduct Board" shall have authority to issue, in the name of the said mayor and common council of the city of Newark, bonds, to be denominated on their face, "Newark City Water Bonds," to the amount of one hundred and fifty thousand dollars, bearing date February one, eighteen hundred and sixty, with interest, payable semi-annually, at the rate of seven per centum per annum, the principal sum of which bonds shall be redeemable at the pleasure of the said board; for the purpose of enlarging, improving, extending, and repairing the said works already erected, and of constructing such new works as are contemplated by this act, the said board shall also have authority to issue, in the name of the said mayor and common council, bonds, to be designated as aforesaid, to the amount of one hundred thousand dollars, bearing interest, payable semi-annually, not to exceed the rate of six per centum per annum, with coupons attached, redeemable in thirty years from the date thereof, and the board may sell the same at public or private sale, at such times as the proceeds thereof may be required for such work, or may pledge the same for money borrowed, at a rate not exceeding seven per centum per annum, if in their opinion the necessities of the work require such proceeding; for the purpose of redeeming and paying the issue of seven per centum bonds hereinbefore authorized, the said board shall also have power in their discretion, to issue bonds, in the name of said mayor and common council, to be designated as aforesaid, to the amount of one hundred and fifty thousand dollars, bearing interest, payable semi-annually, not to exceed the rate of six per centum per annum, with coupons attached, redeemable at any time not less than twenty nor more than fifty years from date, which last mentioned bonds and the proceeds of the sale

thereof shall be appropriated solely and exclusively to the redemption of the issue of seven per centum bonds hereinbefore authorized, and for that purpose the said board may, at their discretion, sell the same at public or private sale, and immediately upon the receipt of the proceeds thereof, shall apply the same to such redemption; all bonds issued as aforesaid shall be signed by the members of said board, or a majority of them, and countersigned by the mayor of the city of Newark, and a record of all bonds so issued, disposed of, or redeemed shall be kept by the said board, and copies thereof shall be furnished by them to the treasurer of the city of Newark; the interest upon all bonds which may be issued by virtue hereof shall be paid semi-annually by the treasurer of the city of Newark.

15. *And be it enacted*, That the said board shall regulate the distribution and use of the water in all places and for all purposes, where the same may be required, and from time to time shall fix the price for the use thereof, and the times of payment; and they may erect such number of public hydrants, and in such places, as they shall see fit, and direct in what manner, and for what purposes, the same shall be used, all which they may change at their discretion; *provided*, that all hydrants, conduits, or appliances required and furnished for the purpose of the extinguishment of fires shall be erected at the expense of the mayor and common council of the city of Newark, and placed as they shall direct, and be under their exclusive control and direction.

16. *And be it enacted*, That the said board shall have full power and authority to require payment in advance for the use or rents of water furnished by them in or upon any building, place, or premises, and in case prompt payment for the same shall not be made, they may shut off the water from such building, place, or premises, and shall not be compelled again to supply said building, place, or premises with water until said arrears, with interest thereon, shall be fully paid.

17. *And be it enacted*, That the said board shall make no contracts for the price of using the water for a longer term

than three years, and at the expiration of any term or lease the price for the use thereof shall be adjusted according to the regulations then established.

Penalty for
injuring works

18. *And be it enacted*, That if any person or persons shall maliciously or wilfully divert the water, or any portion thereof, from the said works, or shall corrupt or render the same impure, or shall destroy or injure any canal, aqueduct, pipe, conduit, machinery, or other property used or required for procuring or distributing the water, such person or persons, and their aiders and abettors, shall forfeit to the said board, to be recovered in an action of trespass, treble the amount of damages (besides costs of suit,) 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 one thousand dollars, or by imprisonment, not exceeding one year, or both, at the discretion of the court.

Land to be
exempt from
taxation.

19. *And be it enacted*, That all lands and real estate, and property of every kind so held as aforesaid by the said board, for and in the name of the mayor and common council of the city of Newark, shall be exempted from all taxes and assessments.

Board may
sell lands not
necessary for
works.

20. *And be it enacted*, That the said board shall be authorized to sell, at their discretion, such portions of the lands and real estate so conveyed as aforesaid by the Newark Aqueduct Company to the said mayor and common council, and of any other lands and real estate held by them in pursuance of this act, as they may deem not to be necessary for the purposes contemplated by this act, and it shall be the duty of the said common council, whenever the said board shall certify to them the fact of any such sale or sales, to direct the said mayor to execute a good and sufficient deed to the purchaser therefor, and the consideration money thereof shall be paid to the said board, and may be used by them at their discretion for any of the purposes contemplated by this act.

Board may
execute prom-
issory notes.

21. *And be it enacted*, That the said board shall be authorized to execute promissory notes, or accept drafts for any of

the legitimate purposes of the said work, in anticipation of the receipt of the proceeds of the sale of the bonds hereinbefore authorized to be issued by them, or of the revenue of the said works; *provided however*, that the whole amount of the permanent indebtedness of the city to be incurred by them by virtue of this act shall not exceed the sum of two hundred and fifty thousand dollars. Proviso.

22. *And be it enacted*, That the said board shall have power to make rules and regulations respecting the introduction of the water into or upon any premises, and from time to time to regulate the use thereof in such manner as shall seem to them necessary and proper; and the members of said board, and all engineers, superintendents or inspectors in their service, are hereby authorized and empowered to enter at all reasonable hours, any dwelling or other place where said water is taken or used, and where unnecessary waste thereof is known or suspected, and examine and inquire into the cause thereof; they shall have full power to examine all service pipes, stop-cocks, and other apparatus connected with said 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 examination, 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 said board may impose, and the supply of water may also be shut off until the required examination is made, and such alterations and repairs are completed as may be necessary. Regulations for use of water.

23. *And be it enacted*, That for the purpose of discovering and making available for the purposes contemplated by this act, other sources for a supply of water than those already used by the Newark Aqueduct Company, the said board are hereby invested with all the rights, powers and privileges conferred on the said Aqueduct Company by a supplement to the charter of said company, approved February seventeenth, eighteen hundred and fifty-seven. Further supply of water.

Payment of
interest on
bonds.

24. *And be it enacted,* That for the purpose of enabling the treasurer of the said city of Newark to pay the interest upon the bonds issued by virtue of this act, it shall be the duty of the said board to pay semi-annually to the said treasurer, and at least one week prior to the time when such payment shall become due, all the net revenue of their said works for the preceding six months, unless the said net revenue shall be more than is sufficient for said payment, in which case they shall pay to the said treasurer only a sufficient sum for that purpose; in order to create a fund for the payment of the said bonds at their maturity, it shall be the duty of the mayor and common council of said city of Newark to raise annually by tax the sum of thirty-five hundred dollars, until said bonds shall be paid and redeemed, which sum the treasurer of said city shall annually, on the first Monday in November in each year, pay over to the said board for that purpose; the said board are hereby authorized and required to invest the said sum from time to time, together with such net revenue as may from year to year remain in their hands after paying all necessary expenses of said works, and the interest upon said bonds, as a sinking fund for the redemption of said bonds; the said board shall have power to make such rules and regulations respecting the management of the said fund as they shall deem expedient, but no part thereof shall at any time be used in any manner inconsistent herewith; they shall keep accurate accounts of the said fund in distinct and separate books from those in which their other accounts are kept, and shall annually make a full and detailed report of the state of the said fund to the common council; in case the revenue received by the board shall not in any year be sufficient to pay the said interest and all necessary expenses of said works, the said fact shall be reported in their semi-annual statements by the said board to the common council, and it shall thereupon be the duty of the said common council to pay over to the said board an amount of funds equal to said deficiency, and if necessary, they may raise said amount by tax in the next succeeding year thereafter.

25. *And be it enacted*, That at the next charter election to be held in said city, in the year eighteen hundred and sixty-one, and every year thereafter, there shall be elected two members of said Newark Aqueduct Board, each of whom shall hold his office for the term of three years; no ballot shall be counted which shall contain the name of more than one person as a member of said board; the said election shall be held and conducted in the same manner, and subject to the same rules and regulations, and the persons to be so elected shall each be a resident and elector of the said city of Newark; the two persons receiving the highest number of votes shall be declared members of said board, and shall enter upon the discharge of their duties on the first Tuesday after the first day of January, next succeeding such election; any vacancies that shall occur in said board by death, resignation, or otherwise, shall be filled by the common council of the city of Newark, but the person or persons so appointed shall hold his or their offices only for the residue of the term for which they may be appointed.

Election of
members of
board.

26. *And be it enacted*, That the members of said board shall not receive any compensation for their services, but shall be repaid for all reasonable expenses which they may incur while in the performance of their duties; the said common council shall be authorized by a committee of their own number, or otherwise, to inspect semi-annually or oftener the state and condition of the works and property of the said board, and the said board shall give them every reasonable facility and assistance in making such inspection.

Compensa-
tion of com-
missioners.

27. *And be it enacted*, That the mayor and common council of said city of Newark may at any time remove any member of said board; *provided*, it shall satisfactorily appear, after reasonable notice to the parties and hearing the causes of complaint and answers thereto, if any shall be offered, that the member whose removal is sought has been guilty of such mal-administration, or such neglect of the duties of his office, that his removal will be right and proper, and two-

Members of
board may be
removed.

Proviso.

thirds of all the members elected to the said common council shall concur in such removal.

Public act. 28. *And be it enacted*, That this act shall be deemed a public act, and take effect immediately.

Approved March 20, 1860.



CHAPTER CLXX.

A further supplement to an act entitled, "An act to incorporate the Belleville Railroad and Transportation Company," passed February fifteenth, eighteen hundred and thirty-six.

Preamble.

WHEREAS, by the seventh section of the act to which this is a supplement, the bridge over the Passaic river, authorized by said act, was required to cross or adjoin the present Belleville bridge belonging to the Belleville Bridge Company, with their consent; but if such consent cannot be obtained, then at some point not exceeding one hundred feet either north or south of said bridge; and whereas, it is desirable to build said bridge at a greater distance in a northerly direction from the present Belleville turnpike bridge, within the township of Belleville, than is limited by the original act—therefore,

Company authorized to build bridge.

1. BE IT ENACTED *by the Senate and General Assembly of the State of New Jersey*, That the said "the Belleville Railroad and Transportation Company" be and they are hereby invested with all rights and powers necessary and expedient to build the bridge across the Passaic river, authorized by the