

L A W S
OF THE
STATE OF NEW YORK,

PASSED AT THE

EIGHTY-SECOND SESSION

OF THE

LEGISLATURE,

BEGUN JANUARY FOURTH, AND ENDED APRIL NINETEENTH, 1859, IN THE
CITY OF ALBANY.



ALBANY :
W. C. LITTLE & COMPANY,
LAW BOOKSELLERS, 515 BROADWAY.
1859.

ciations, which own the volumes already published, or the greater part of them, shall have the right to complete their sets on the terms heretofore established for that purpose.

SECTION 4. All acts or parts of acts inconsistent with the provisions of this act are hereby repealed.

SECTION 5. This act shall take effect immediately.

Chap. 396.

AN ACT to provide for the supply of the city of Brooklyn with water.

Passed April 16, 1859 ; three-fifths being present.

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

SECTION 1. The board of water commissioners, created by the act entitled "An act to provide for the supply of the city of Brooklyn with water," passed February eleventh, eighteen hundred and fifty-seven, are hereby authorized to purchase such additional land, and, under existing provisions of law, extinguish such additional water rights as may be necessary for the use or protection of the said water works, and such additional pipes and other materials as may be necessary for the distribution of water, and the increase of the cost of the said water works, occasioned thereby, and all incidental expenses, incurred and to be incurred in the construction and management of said works, except as hereinafter otherwise provided for, shall be met by the issue of bonds, as prescribed by the said act, to the necessary amount; provided that such issue shall, in no event, exceed five hundred thousand dollars, unless with the approval of the common council of said city.

§ 2. When the said water works shall be completed so as to be capable of delivering and distributing a daily supply of ten millions of gallons in the said city, the said commissioners shall certify the same to the common council of the said city, and thereupon the exclusive control and management thereof, as fast as the same shall be completed, shall be transferred to a permanent

May purchase additional land

Bonds to be issued.

Management to be transferred when works are completed.

water-board, to be created as herein provided, and until such transfer is consummated, the exclusive control and management of said works shall be vested in the said commissioners, with the powers as are herein conferred upon the said permanent water board; such transfer shall not in any way affect the powers of the present board of commissioners as a board of construction to complete the works.

§ 3. The said permanent water board shall consist of four members, who shall be called water commissioners. The said board shall be appointed as follows: Two thereof by the commissioners first before mentioned in this act; the other two thereof shall be appointed by the mayor of said city, and with the consent of the board of aldermen of said city at a meeting which shall be held for that purpose on the twenty-fifth day of April, one thousand eight hundred and fifty-nine, which said meeting shall convene at eleven o'clock on that day, and thereafter all vacancies which shall occur in said board shall be filled by a two-third vote of the common council, on the nomination of the mayor of said city; but no one of the present water commissioners shall be eligible to any appointment as a permanent water commissioner, under any of the provisions of this act.

Board to consist of four members.

§ 4. Said permanent water commissioners shall hold their office for eight years, and until others are appointed and qualify in their places; except that the members who shall first constitute the said board shall hold their offices, one for two years, one for four years, one for six years, and one for eight years, and shall, within thirty days after their appointment, draw lots for the said terms in the presence of said mayor, who shall certify the same to the city clerk.

Term of office.

§ 5. They shall respectively subscribe an oath of office and file it in the office of the clerk of the said city, within ten days after their appointment, and shall also, within the same time, execute to the said city, and file in the said office, a bond with two or more sureties in the penal sum of twenty thousand dollars, conditioned that they will faithfully account for all moneys which shall come into their hands or into the hands of the said board, and perform their duties as such commissioners. The justices of the supreme court of the

To subscribe oath and give bonds.

Bond to be approved.

second judicial district shall approve of such bonds, or require the execution of others in their place, until the same shall be approved; and no commissioner shall take office until such bond shall be approved by the said justices of the supreme court of the second judicial district, and in case any of such first water commissioners shall fail to qualify or enter upon office, the nomination and appointment shall be made pursuant to the third section of this act, as if no such nomination or appointment had been made, until such permanent water board shall be fully filled. All subsequent vacancies created by death, resignation, or otherwise, shall be filled for the unexpired term in the manner hereinbefore provided.

Salary.

§ 6. The members of the said board shall each receive an annual salary of two thousand five hundred dollars, payable quarterly.

May be removed for cause.

§ 7. Any commissioner may be removed from office by a vote of two-thirds of the members elected to the common council, for cause, upon written charges of misfeasance or nonfeasance in office, and after reasonable opportunity to be heard in his defense.

By-laws.

§ 8. The said water board shall make by-laws and regulations for its own government, and for the government of all officers and employees whom it may appoint. One of its own members shall be elected president, and another secretary, who shall have charge of the records and papers of the board, and the same are hereby declared to be public records.

Chief engineer and other officer to be appointed.

§ 9. The said board may appoint during pleasure, a chief engineer, a water register, a water purveyor, and such and so many other subordinate officers and employees as the water service may require; and shall fix and pay their salary and compensation.

Board to manage works.

§ 10. The said board is hereby charged with the duty of managing said works, so as to attain the objects for which they are constructed, and of keeping them in a state of efficiency and repair; and they are authorized, from time to time, to expend such sums of money as shall be appropriated by the common council for those purposes.

May prosecute or defend actions.

§ 11. The said board shall, in the name of the city of Brooklyn, prosecute or defend all actions and proceedings, at law and in equity, for money due for the use of

water, or for the violation of any ordinance or regulation respecting the water works or water, or for the breach of any express or implied contract relating to the construction or management of the water works, or the distribution of water; and also for any injury or nuisance to the water courses, ponds, canals, conduits, reservoirs, pipes, machinery, buildings, fences, crossings, fixtures, or anything appurtenant to the said water works, or for any improper use or waste of the water, within or beyond the city of Brooklyn.

§ 12. All water rates and water rents shall be paid to, and collected by the said board. All moneys received by the said board shall be paid weekly to the treasurer of the city of Brooklyn, who shall keep a separate account of all moneys received from, and paid on account of the water works. He shall hold all moneys paid in on account of the water works, and shall pay them out as provided by this act, and not otherwise. The said board shall draw their drafts upon the comptroller of the said city, signed by their president and secretary, for all salaries and all charges, liabilities and expenses incurred in the performance of their duties under this act; specifying in such drafts the purpose for which the same are drawn; and the said treasurer shall pay the same out of the said water moneys, on the draft of the comptroller, countersigned by the mayor and city clerk.

Water rents
to be paid
to treasurer

§ 13. The said board may, upon such terms and conditions as they may prescribe, license plumbers and others to open streets and bore pipes, and make the necessary connections therewith to conduct the water upon any premises for use, and may prescribe a license fee to be paid by such licenses, and may require from them security against dam* and for the faithful performance of their duties.

May license
plumbers.

§ 14. The said board shall fix the times when all water rents shall be payable; they may make regulations as to the times and mode of using the water and testing the quantity used, and the rules and restrictions for such use, printed on each water permit, shall be notice to the water takers, and shall authorize the exactions

Water rents

* So in the original.

and recovery, by due process of law, of any penalties which the said board may impose, in addition to the cutting off the use of the water, for any violation of the rules: and this section shall be printed on such permits.

Books to be kept.

§ 15. The said board shall keep regular books of accounts, and a full and accurate record of all their official proceedings, which shall be open to the inspection of the mayor and comptroller of the said city, and the water committee, or such special committee as the common council may designate for that purpose. They shall, on the first Tuesday of February and August, in each year, make a written report to the common council of the condition of the works under their charge up to the first of January and the first of July respectively, accompanied by a statement of their receipts and expenditures on account of the same; and shall, on or before the first Monday of May, in each year, report to the common council a working plan for the ensuing year under the several heads of repairs, purchase and laying of mains and pipes, and new work, with an estimate of the quantity of work under each head of expenditure, which it shall be proposed to undertake, and of the costs of each, and of the amount of salaries and contingencies to be incurred, and exhibiting a total of the expenditures contemplated to be made during the ensuing twelve months from the first day of May then next. The appropriations which the common council shall make for the preservation and repair of the works, shall be applied to those objects alone for which the appropriations shall be made, and the expenditure for any object shall not exceed the appropriation therefor.

Report.

Standing water committee to examine books

§ 16. It shall be the duty of the standing water committee of the common council, to inspect the said water works thoroughly once in every year, and make a written report thereon to the common council; the common council shall, on the first Monday of November, in every year, appoint a special committee of their body, who shall examine the books, accounts and vouchers of the said board, and the receipts of the water rents, and make a written report thereon to the common council. The members of the said committee shall each receive three dollars for each day of six hours necessarily employed by them in the performance of said duties.

Compensation.

§ 17. The said board shall cause hydrants to be placed in the public streets wherever they may deem them necessary, to be used for the extinguishment of fires and other purposes,* and may prescribe and limit their uses; and any use thereof in violation of the regulations which said board may impose, is hereby declared to be a misdemeanor, for which any person offending may be punished according to law. The said common council may, by ordinance, prescribe penalties for the violation of said regulations; and the said water board, in the name and for the use of the city of Brooklyn, to the credit of the water fund, may sue for and recover such penalties, with treble costs, in any court.

Hydrants
to be placed
in public
streets.

Penalties
may be
prescribed.

§ 18. The said water board shall recommend to, and the common council shall, by ordinance, establish a scale of annual rents for the supply of the water, to be called the "regular rents," by way of distinction from the assessments hereinafter directed, and adapted to the different classes of buildings in said city, with reference to their dimensions, values, exposures to fires, their ordinary uses for dwellings, stores, shops, private or other stables, or other common purposes, number of families or other occupants, or probable consumption of water, as near as may be practicable, and may change said scale from time to time, and also extend it to other descriptions of buildings, occupants and uses; such rents shall be collected from the owners and occupants of all such buildings, respectively, which shall be situated upon lots adjoining any street, avenue, lane or court in said city in which the distributing water pipes shall have been laid, and from which they can be supplied with water, whether the water shall be used or not. Said regular rates, together with all interest that may accrue thereon, shall be a lien upon such houses and lots respectively; hotels, factories, stables, livery stables, and other buildings and establishments which shall consume extra quantities of water, and steamboats and shipping, may, in addition to the regular rents, be charged with rents to be called "extra rents," to be established in like manner as the regular rents. The regular and extra rents now charged in the city of New

Scale of
annual
rents to be
established

Regular
and extra
rents.

* So in original.

York for the use of the Croton water shall be paid for the water in the city of Brooklyn, as hereinbefore provided, except as a different scale shall from time to time be fixed by the said common council. Water may be distributed from said works for any use in Kings, Queens and adjacent counties, upon such terms and conditions as may be prescribed by the water board, subject to the ordinances of the common council.

Rents unpaid for thirty days liable to additional charge.

§ 19. Such regular and annual rents as shall remain unpaid for thirty days after they are payable, shall be subject to an additional charge of one per cent a month until paid, and such additional charge shall be a lien upon the premises.

Taxes and extra rents to be a lien

§ 20. All taxes and rents authorized by this act to be imposed, except extra rents, shall be a lien upon the premises on which they are charged, and may be collected of either the owners or occupants. Such liens may be enforced according to existing laws for the collection of taxes in the city of Brooklyn.

\$50,000 to be added to general tax.

§ 21. There shall be added to the general tax for the city of Brooklyn at large, in the year eighteen hundred and fifty-nine, and yearly thereafter, and levied and collected therein, the sum of fifty thousand dollars, which is hereby directed to be paid to the commissioners of the sinking fund hereinafter mentioned, and held and managed by them for the full and final redemption of the bonds issued on account of the said water works, and for no other purposes; and also there shall be added to the said general tax for said city at large, in the year eighteen hundred and sixty, and yearly thereafter, such further sums of money, in each of said years, as shall be necessary to pay any deficiency which the net income of the water works, after paying the annual expenses thereof, shall be insufficient to pay the interest for any such year on any such bonds. It shall be the duty of the mayor and comptroller of said city to estimate and ascertain the amount of such deficiency, and transmit a statement of the same in each year to the board of supervisors of the county of Kings, in time to have such amount included in the general tax of the said city for that year; and it shall be the duty of said supervisors to cause such amount to be included in such general tax.

§ 22. The price or rents to be fixed for the use of water to be supplied by the said works, shall, as far as may be reasonable and practicable, be regulated and adjusted so as to pay, from the net income, the interest upon, and ultimately the principal of the said bonds. After the payment or deduction of all expenses and charges of maintenance and distribution, the net surplus income from said works shall be set apart as a special sinking fund, to be denominated "the water sinking fund," and shall be appropriated and applied for and towards the payment of the principal and interest of the said bonds, and shall be under the management and control of the mayor, comptroller and treasurer of said city, or the major part of them for the time being, who shall be the commissioners of the said fund, to be applied solely to the use and purpose aforesaid, until the principal and interest of the said bonds shall be fully paid and discharged.

Rents.

Water sinking fund.

§ 23. The moneys directed by the preceding section to be paid into the said water sinking fund, shall be invested by the commissioners of said fund, in the several and respective public stocks or bonds issued by the city of Brooklyn, by the county of Kings, by the state of New York, and by the United States.

Moneys to be invested.

§ 24. The said water board shall, in every year, by resolution, fix the price which shall be assessed (over and above the regular rent, and the special rent hereinbefore provided for) upon every vacant lot situated upon any street, lane, alley or court through or into which distributing pipes shall have been laid, until the bonds issued for the construction of the said works, with the interest thereon, shall have been paid, and thereafter they shall be adjusted so as to, with the other provisions of this act for income from said works, meet the expense of repairs, maintenance and extension of the works. The net proceeds or income of the works shall be paid into the said special sinking fund, as before provided. Such sums so assessed, together with percentages for default, as prescribed by section nineteen of this act, shall be a lien upon the said premises respectively, and the same may be collected and enforced in the same manner as taxes are collected and enforced against land in said city.

Water board to fix price of assessment.

Net proceeds.

§ 25. Any person or persons, their aiders and abettors,

Diversion of waters to

be punished by fine and imprisonment.

who shall willfully divert or cause the diversion of the water, or any portion thereof, from the said works, or any portion thereof, or shall corrupt or render the water unpleasent or impure, or shall destroy or injure any canal, aqueduct, conduit, reservoir, pipe, hydrant, fountain, gate, machinery or other property, part, parcel or appurtenance of the said works, required or used for procuring, securing or distributing the water, shall severally forfeit to the said commissioners, and the said board, for the use of the city of Brooklyn, to be recoverable in any proper form of action, treble the amount of damages proved to have been occasioned thereby, with treble costs of such action; and all such acts are hereby declared misdemeanors, and any person convicted of any such act shall be further punished by a fine not exceeding one thousand dollars, or by imprisonment not exceeding one year, or both, in the discretion of the court.

Lands used for water works, how taxed.

§ 26. The lands which shall be occupied by or used for the said water works, in Kings and Queens counties, shall be taxed at the value of the adjacent lands used for agricultural purposes, exclusive of any improvements thereon, and all such improvements are hereby declared to be exempt from taxation, except that in the county of Queens dwelling-houses and machine and pump-houses, and machinery in such machine or pumping-houses upon such lands, may be taxed in the same manner as against individuals.

Board may change plan and substitute closed conduit.

§ 27. The board of water commissioners created by the act entitled, "An act for the supply of the city of Brooklyn with water," passed February eleventh, eighteen hundred and fifty-seven, are hereby authorized to change the plan for such supply, and to substitute a closed conduit for the whole or any portion of the open canal east of the present conduit. They may, upon the change of such plan, arrange upon such terms and conditions, and extend the periods for the furnishing of such supply as they may see fit; but no contract made by them for such closed conduit shall increase the cost of the water works to exceed the sum of five hundred thousand dollars for such closed conduit, and such increased cost, shall be met by like increase in the amount of bonds to be issued as provided by said act; such increase

Increased cost not to exceed \$500,000.

of bonds shall be in addition to the amount named in the first section of this act.

§ 28. All acts and parts of acts inconsistent with this act are hereby repealed.

§ 29. This act shall take effect immediately.

Chap. 397.

AN ACT to declare the village of Cuba a separate road district; and to provide for raising money by tax therein for highways and sidewalks; and compel owners of property therein to build sidewalks, and for other purposes.

Passed April 16, 1859; three-fifths being present.

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

SECTION 1. The said village of Cuba shall constitute a separate road district in the town of Cuba; and the territory comprised within the same shall be exempt from the superintendence and jurisdiction of the commissioners of highways of the town of Cuba; and the trustees of said corporation shall have all the powers within said village, and be subject to all the duties and liabilities of commissioners and overseers of highways of towns, in like cases, and may, in their discretion, appoint one of their number or any other competent person, street commissioner; whose special duty it shall be to superintend, subject to the control of said trustees, the construction and repairs of all bridges, streets, roads, sidewalks, crosswalks and public squares and commons. and who shall receive for his services such amount as a majority of the board of trustees may deem proper, to be paid out of the money arising out of highway taxes.

§ 2. The trustees of said village shall have power to raise, levy and collect from all persons owning property in said village, a sum not exceeding two hundred dollars in any one year, as a contingent fund to defray ordinary expenses of said corporation, and for such other purposes as they may deem proper, not inconsistent with the provisions of this act.

Separate
road
district.

Powers of
trustees.