

LAWS
OF THE
STATE OF NEW YORK

PASSED AT THE
ONE HUNDRED AND FIFTY-FIRST SESSION

OF THE
LEGISLATURE

BEGUN JANUARY FOURTH, 1928, AND ENDED MARCH
TWENTY-SECOND, 1928,

AT THE CITY OF ALBANY

AND ALSO OTHER MATTERS REQUIRED BY LAW TO
BE PUBLISHED WITH THE SESSION LAWS

VOLS. I—II



ALBANY
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1928

2. For placing a cause on the special term calendar for the trial of an issue of fact in the supreme court, ²twenty dollars.

3. For placing a cause on the trial term calendar in the supreme court, ²twenty dollars.

3-a. ³Where the right to a jury trial is duly demanded, twelve dollars for jury fee, to be paid by the party first demanding a jury trial at the time of the filing of written notice of such demand by the party giving notice thereof. This subdivision shall apply to all actions in which a note of issue shall be filed in the counties of New York and Bronx⁴ subsequent to the first day of May, nineteen hundred and twenty-seven, ⁵and in the counties of Kings, Queens and Richmond subsequent to the first day of May, nineteen hundred and twenty-eight.

§ 2. Such section is hereby amended by inserting therein a new subdivision, to be subdivision three-c, to read as follows:

Subd. 3c
added to
§ 1537a.

3-c. In the county of Kings, Queens or Richmond, in all actions triable by jury in which a note of issue shall have been filed on or before the first day of May, nineteen hundred and twenty-eight, and which actions have not appeared upon any day calendar of the supreme court on or before the first day of May, nineteen hundred and twenty-eight, the plaintiff shall pay a jury fee of twelve dollars, and such action shall not be placed upon a day calendar for jury cases until after such payment shall have been made.

§ 3. This act shall take effect May first, nineteen hundred and twenty-eight.

In effect
May 1,
1928.

CHAPTER 862

AN ACT to amend the conservation law, in relation to the powers of the water power and control commission as to the water supply of the city of Rochester

Became a law April 6, 1928, with the approval of the Governor. Passed, on message of necessity, three-fifths being present

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

Section 1. Article eleven of chapter six hundred and forty-seven of the laws of nineteen hundred and eleven, entitled "An act relating to the conservation of land, forests, waters, parks, hydraulic power, fish and game, constituting chapter sixty-five of the consolidated laws," as so renumbered by chapter two hundred and forty-two of the laws of nineteen hundred and twenty-eight, is hereby amended by adding thereto four new sections, to be sections five hundred and twenty-six, five hundred and twenty-seven, five hun-

§§ 526-529
added to
L. 1911,
ch. 647.

² Remainder of subs. 2, 3 formerly read: "in the counties of New York and Bronx, twenty dollars, and in the counties of Richmond and Kings, three dollars."

³ Words "In the county of New York or Bronx" omitted.

⁴ Word "in the counties of New York and Bronx" new.

⁵ Remainder of subd. 3a new.

dred and twenty-eight and five hundred and twenty-nine, to read, respectively, as follows:¹

§ 526. **Indirect damages; determination by commission as to Rochester.** Whenever the commission shall find and determine that the execution of any water supply project by the city of Rochester will result in damages to persons and property the determination of and payment for which are not otherwise provided for by law, it shall so state in its decision and it may require that such damages be determined and paid in accordance with the provisions of section five hundred and twenty-seven of this chapter.

§ 527. **Indirect damages; determination and payment as to Rochester.** Whenever, in any case wherein the commission has made a determination in accordance with the provisions of section five hundred and twenty-six of this chapter, any person who is on the date of such determination the owner of any real estate not taken by the applicant, or the owner of any established business, directly or indirectly decreased in value by reason of the acquiring of land for or on account of a new or additional water supply project, his heirs, personal representatives and assigns, shall have a right to damages for such decrease in value. The city of Rochester may agree with such person as to the amount of such damages, and, if such agreement cannot be made, such damages, if any, shall be determined in the manner provided in the charter of the city of Rochester for the ascertaining and determining of the value of the real estate taken for said project, and the commissioners appointed to fix and determine such damages shall not be limited in the reception of evidence to the rules regulating the proof of direct damages. The amount of such damages so agree upon, or determined, as aforesaid, shall be paid and collected in the same manner as is provided for the payment of awards made by commissioners in condemnation proceedings as provided in the charter of the city of Rochester for the taking of real property. A person employed in a manufacturing establishment, or in an established business, or upon any lands, who is not the owner or part owner thereof, which manufacturing establishment, or established business, is injured or destroyed, or which lands are taken or acquired under or on account of the carrying out of such project, and who has been so employed continuously for at least six months prior to the date of the decision of the commission and who continues in such employment up to the time of such injury, destruction, taking or acquisition, shall have a claim for damages against the city of Rochester equal to the salary or wages paid to such employee for the six months immediately preceding the date of said decision. Such damages may be determined by agreement with the city of Rochester. In case such agreement cannot be made, such employee may maintain an action against the city of Rochester in the supreme court to recover such damages, not, however, to exceed the sum of the salary or wages paid him for the six months immediately preceding the date of said decision of the commission. If

¹ Identical §§ 526-529 are added to art. 9 by L. 1928, ch. 587, ante.

the commission shall so approve of a project, or a part of a project, the execution of which is to be deferred, or, if for any reason such execution shall thereafter be deferred, the commission shall in its decision, or in a modification thereof, fix a date, other than the date of the decision, which shall be held to be applicable to all damages arising from the execution of such project, or of such part of a project.

§ 528. **Supply of water to other public water supply systems by the city of Rochester.** The commission may require or authorize the city of Rochester to make provisions for the supply and to supply water to any other existing or proposed public water supply system or to the inhabitants of any part of the state, which in the opinion of the commission should properly be supplied with water from the source or sources of water supply desired by the city of Rochester. The owner or operator of any existing or proposed water works system which in the opinion of the commission should properly be supplied with water from the source or sources of the water supply desired by the city of Rochester may apply to the commission for the right to take water from the source of water supply or from an part of the water supply system of the city of Rochester. If the commission so requires, or if it approves such application, it shall be the duty of the city of Rochester so to supply water, subject to such requirements as the commission may impose. The amount of water so to be taken and the price to be paid therefor may be agreed upon between the city of Rochester and the taker of the water, or, if they cannot agree, fair and reasonable amounts and rates shall be, after due hearing thereon, fixed by order of the commission. Any such agreement or order of the commission may from time to time be modified by further agreement between the parties affected thereby or by the further order of the commission.

§ 529. The powers, rights, privileges and duties granted, conferred and imposed by sections five hundred and twenty-six, five hundred and twenty-seven and five hundred and twenty-eight are hereby granted, conferred and imposed notwithstanding any inconsistent provision in this or any other general or special act.

Powers,
etc.,
granted,
notwith-
standing
inconsist-
ent acts.

§ 2. This act shall take effect immediately.

CHAPTER 863

AN ACT to amend the co-operative corporations law, in relation to stockholders of purchasers' and consumers' co-operative corporations

Became a law April 6, 1928, with the approval of the Governor. Passed, three-fifths being present

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

Section 1. Section eighty-nine of chapter two hundred and thirty-one of the laws of nineteen hundred and twenty-six, entitled "An act relating to co-operative corporations, constituting chapter seventy-seven of the consolidated laws," is hereby amended to read as follows:

L. 1926,
ch. 231,
§ 89
amended.