

THE
STATUTES OF CALIFORNIA,

PASSED AT THE

NINTH SESSION OF THE LEGISLATURE.

1858.

BEGUN ON MONDAY, THE FOURTH DAY OF JANUARY, AND ENDED ON MONDAY,
THE TWENTY-SIXTH DAY OF APRIL.

STATE LIBRARY

SACRAMENTO:
JOHN O'MEARA, STATE PRINTER.
1858.

supplemental, are hereby declared to be those granted to the said William Moody and Morgan Hart by an act entitled an act to authorize William Moody and Morgan Hart to build a wharf in the county of Solano, approved May third, one thousand eight hundred and fifty-two, as amended by an act entitled an act amendatory of an act to authorize William Moody and Morgan Hart to build a wharf in the county of Solano, passed May third, one thousand eight hundred and fifty-two, approved February twenty-fourth, one thousand eight hundred and fifty-three, and no other.

Wharf.

CHAP. XCV.—*An Act to ratify and approve Order number forty-six, of the board of supervisors of the City and County of San Francisco, approved August sixth, one thousand eight hundred and fifty-seven.*

[Approved March 18, 1858.]

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

Whereas, On the third day of August, one thousand eight hundred and fifty-seven, the board of supervisors of the city and county of San Francisco passed an order, known as "order number forty-six," "in relation to the introduction of pure fresh water into the city and county of San Francisco, for fire, municipal, and other purposes," which order was duly approved by E. W. Burr, the president of said board of supervisors, on the sixth day of August, A. D. one thousand eight hundred and fifty-seven, of which order the following is a copy, to wit :

Water in San Francisco.

Order number forty-six—In relation to the introduction of pure fresh water into the city and county of San Francisco, for fire, municipal, and other purposes.

Order No. 46.

The People of the City and County of San Francisco do ordain as follows :

§ 1. The San Francisco City Water-Works, a company duly incorporated according to the laws of this state, and their successors and assigns, shall be allowed to introduce pure fresh water, for fire, municipal, and other purposes, into the city and county of San Francisco, through any lands claimed as belonging to the city and county of San Francisco, and to conduct water from a dam, to be constructed near the mouth of "Lobos Creek," so called, by means of a suitable aqueduct of sufficient capacity to carry all the water of said stream, commencing at a point near the mouth of said creek ; thence, following along near the shore of the bay, to some suitable point at North Beach, near the foot of Taylor street; at, or near which point, the said company shall build a reservoir of not less than two millions of gallons capacity; and the said works shall be forfeited to the city and county of San Francisco, if not completed as specified in this section, within one year from the passage of this order, unless the progress of the work be suspended by law ; in which case an additional time shall be allowed to said company, equal to the period during which the progress of the work may have been suspended as

Order No. 46. aforesaid; *Provided*, said company shall use all due diligence in relieving themselves from such legal impediments.

§ 2. Said company shall, from the said point at the North Beach, in said city and county, by suitable and sufficient machinery and pumps, elevate the water, hereby authorized to be introduced into the said city and county, into a distributing reservoir, constructed at an elevation of not less than one hundred feet above the base line of the city grade of streets. Said reservoir shall be of brick and cement, and of sufficient capacity to contain not less than four millions of gallons; also, a third reservoir shall be begun, and completed within the same time as the second reservoir; to be constructed at an elevation sufficiently high to supply the inhabitants west of Stockton street, and not less than two hundred feet above the base of city grades, and of not less than two millions of gallons capacity; and the said company shall connect with said reservoirs suitable iron pipes, to be by them laid down through the streets and alleys of said city and county, under the direction of the board of supervisors, capable of supplying and discharging not less than two millions of gallons of water every twenty-four hours; the strength, size, and capacity whereof shall be such as are required by the rules and regulations adopted by the Croton Water-Works, in the city of New York, for like services; *Provided*, that a main shall be connected to the first-mentioned distributing reservoir, extending through such streets as shall be necessary, to Market street, within two years from the passage of this order, unless the progress of the work be suspended by law; in which case additional time shall be allowed to said company, equal to the time during which the progress of the work may have been suspended, as aforesaid; *Provided*, that said pipes shall be so laid down as not to interfere with or obstruct any gas or water-pipes of other parties, laid down by authority of law; and said company shall, within the time prescribed in this section, be prepared to distribute at least two hundred thousand gallons of water daily.

§ 3. All the streets, alleys, or public places, along or through which the distributing pipes for conducting said fresh water may be laid, shall be, in all cases, placed in like order, by said company, as the same were before such pipes were laid down; and such replacing and relaying shall be done under the supervision of the superintendent of streets and highways, and to his satisfaction.

§ 4. The said city and county, under the direction of the board of supervisors, shall be entitled to the free use of the water so introduced, for the purpose of extinguishing fires, and for the supply of all hydrants, fire-plugs, pumps, and cisterns, and for all the public purposes of said city and county, except for sprinkling the streets; and the said city and county shall have the right, under the direction of the board of supervisors, to tap the pipes, and connect the same with hydrants, fire-plugs, pumps, cisterns, and other public works, at such places as they may deem proper.

§ 5. The rates to be charged for the use of water, shall be established by the board of supervisors, and the rates so fixed, for the first five years after the introduction of water, as provided in section two, shall be calculated to produce a gross revenue of twenty-four per centum per annum upon the actual cash capital invested, and thereafter, such as will produce a gross revenue of

twenty per centum per annum; such rate may, if necessary for this purpose, be established quarterly during the first year, and and yearly thereafter. At the expiration of twenty years from the passage of this order, should the city and county not have repaid the cost of said work, as provided in sections six and seven, prior to that time, then the said water-works, with all the dams, flumes, aqueducts, pipes, buildings, engines, reservoirs, and appurtenances, and the revenues arising therefrom, shall absolutely, and without any condition, revert to the city and county of San Francisco. And if, in any year, the revenues shall exceed the per centage allowed in this section for that year, such surplus shall be paid into the treasury of the city and county, for a sinking fund towards the repayment of the cost of said works; but in no case shall the provisions of this section be so construed as to guarantee to said San Francisco City Water-Works any part of said revenue. Order No. 46.

§ 6. At the expiration of two years from the introduction of said water into the city and county, as provided in section one, as aforesaid, and at any time thereafter, by giving thirty days' notice, said city and county shall have the right to reimburse to said company the value of said water-works, at a valuation to be made as hereinafter provided; and said city and county shall thereupon receive possession and control of said water-works, and of all revenues arising therefrom.

§ 7. Said valuation shall be determined by a board of commissioners, to be elected as follows: three by the board of supervisors, and three by the San Francisco Water-Works; and, in case the six cannot agree to the valuation, then, in that case, the six shall agree upon another person, and he shall become a member of said board. The decision of the majority, so acting, shall be final. The valuation shall not exceed the actual cash capital invested, from which such deduction shall be made as may be necessary for the actual wear and tear of such portions as are made of perishable material, employed in the construction of the work, with legal interest, if purchased within three years; or, after three years, at an actual valuation not exceeding the cash capital invested in the construction thereof, without interest; nor shall the decision be binding upon said city and county until afterwards approved by the said board of supervisors.

§ 8. It is hereby provided that, should any other company, person, or persons, receive permission to introduce water for the purpose of supplying the said city and county therewith, no more favorable terms shall be granted to such company or persons than to the company authorized under this order, without extending the same terms to the San Francisco City Water-Works.

§ 9. The books and papers of the San Francisco City Water-Works shall at all times be open to the inspection of a committee authorized by the board of supervisors and to the president thereof; and the officers of the said San Francisco City Water-Works may be examined, under oath, touching the receipts and expenditures of said company. The books of the company shall show the actual expenditures and receipts, and the construction account shall be kept distinct from the cost of operating the said works.

Order No. 46.

§ 10. This order shall not be construed or understood as leasing or conveying to the San Francisco City Water-Works any right, title, or interest, in or to the waters, lands, or ways, mentioned in this order, and to which said city and county claim title, but shall be understood and construed as a contract with, and employment of, the said San Francisco City Water-Works, to bring the water claimed as belonging to the city and county, through the lands and streets of said city and county, into the city and county, as aforesaid, for protection against fire, and for other public uses authorized by law; and the city and county of San Francisco hereby specially reserves all her right, title, interest, property, and estate, in said waters, lands, and ways; and it is further understood that the said company does not, by any provisions herein contained, estop itself from asserting hereafter, against said city and county, any title, right, or interest, which it may now have in the said water and lands. And, in case the said city and county elect hereafter to reimburse to said company the cost of said works, so much, or such part of the sources of water, right of way, and land damages, as shall at that time be the property of said city and county shall not be included in the estimate of cost or valuation; and it is expressly understood that the said city and county shall not, at any time, unless by operation of law, during said term of twenty years, molest or interfere with the said San Francisco City Water-Works, the progress of said works, or the collection of the rents, unless said city and county should sooner repay the said company the cost of said works as hereinbefore provided.

§ 11. The said company shall furnish, at their own expense, for the use of the city and county, a "marble fountain," to cost not less than two thousand dollars, nor more than two thousand five hundred dollars, and erect the same, under the direction of the board of supervisors, in the public plaza of San Francisco, and shall furnish a suitable supply of water for the same, free of charge; said fountain to be used on Sundays and on all public occasions, and on such other days as shall not interfere with the supply of water for other purposes. The water, after being used by said fountain, may be conducted, by said company, to any portion of said city and county, as may be required by said company for their use.

§ 12. If the said San Francisco City Water-Works shall fail to comply with any of the provisions of this order, or shall have failed to complete said works to the extent, and within the time prescribed in section two of this order, then, in that case, all the rights granted under this order, and all the works of said company, shall revert, absolutely and without conditions, to the city and county of San Francisco; and the said San Francisco City Water-Works shall be prohibited thereafter from exercising or enjoying any of the rights or privileges granted in this order.

§ 13. The said company shall be required to supply the city and county hospital, at the foot of Stockton street, with pure fresh water, free of charge, as soon as the same can be supplied from the second reservoir.

[In the board of supervisors, August third, one thousand eight

hundred and fifty-seven, finally passed by unanimous vote. Absent, Supervisors Wilson, Roberts, and Merritt.

MILO CALKIN, Clerk.]

[Approved, San Francisco, August sixth, one thousand eight hundred and fifty-seven.

E. W. BURR, President Board of Supervisors.]

Be it therefore enacted, that the said order number forty-six, above named and recited, be, and the same is hereby, ratified and confirmed, and declared legal and valid, according to the terms and conditions therein named; *Provided*, that nothing herein shall be so construed as to impair any existing rights of the Mountain Lake Water Company. Order No. 46
ratified.

CHAP. XCVI.—*An Act to repeal in part an Act entitled "An Act concerning Hogs found running at large in the counties of Colusa, Tehama, Butte, Sonoma, and Napa," approved March twenty-sixth, one thousand eight hundred and fifty-seven.*

[Approved March 20, 1858.]

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

SECTION 1. An act entitled "an act concerning hogs found running at large in the counties of Colusa, Tehama, Butte, Sonoma, and Napa," approved March twenty-sixth, one thousand eight hundred and fifty-seven, is hereby repealed, so far as the same relates to the county of Sonoma. Act repealed.

CHAP. XCVII.—*An Act supplementary to and amendatory of "An Act defining the duties of State Librarian, and prescribing rules for the government of the State Library," passed April ninth, one thousand eight hundred and fifty.*

[Approved March 20, 1858.]

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

SECTION 1. The act entitled "an act defining the duties of State Librarian, and prescribing rules for the government of the state library," is hereby amended by addition of the following section :

Section nine—The said Librarian shall cause the library to be kept open from ten, A. M., to four, P. M., daily, Sundays and holidays excepted; and during the sessions of the Legislature, the said library shall be kept open every day, from ten, A. M., to four, P. M., and from seven, P. M., to ten, P. M., unless otherwise ordered by concurrent resolution of both Houses. Librarian's
duties.