

*Free a Service*

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# ACTS

WILLIAM L. BROWN  
GOVERNOR  
TREASURER

OF THE

## SEVENTY-SIXTH LEGISLATURE

OF THE

# STATE OF NEW JERSEY,

AND

## EIGHTH SESSION UNDER THE NEW CONSTITUTION.



BY GEORGE L. BROWN

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1852.

and liabilities, contained in the act entitled, "An act concerning corporations," approved the fourteenth day of February, one thousand eight hundred and forty-six, so far as the same are applicable.

18. *And be it enacted*, That in case the amount of stock required by the third section of this act shall not be subscribed within three years after the commissioners shall have opened the subscription books to receive subscriptions to the capital stock, as required by the first section of this act, then it shall be lawful for said commissioners, after due notice given, as required by said first section, to open said books for subscription to said stock to make said turnpike road from Haddonfield to Longacoming and Winslow, or either of said places; and the said stockholders shall be, and they are hereby entitled to all the privileges conferred by this act.

Commissioners may re-open books, if stock not taken in three years.

Approved March 25, 1852.

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#### CHAPTER CLXXIV.

AN ACT to authorize the construction of works for supplying Jersey City and places adjacent with pure and wholesome water.

WHEREAS, by an act of the legislature, passed eighteenth Preamble. March, eighteen hundred and fifty-one, certain commissioners were appointed "to examine and consider all matters relative to supplying Hoboken, Van Vorst, and Jersey City with a sufficient quantity of pure and wholesome water, for the use of their inhabitants, and the amount of money necessary to effect that object," and the said commissioners having performed the duties assigned to them, and made a report of their examinations, together with an opinion, founded upon careful surveys and estimates made by experienced engineers, that a sufficient quantity of pure and wholesome water for the use

of the inhabitants of Jersey City, and parts of the townships, of Bergen, North Bergen, and Hoboken, may be obtained at such reasonable cost as will render the acquisition thereof advantageous, and the mayor and common council of Jersey City, and sundry others interested therein, having petitioned for the passage of an act to authorize the construction of works for that purpose—therefore,

Mayor and common council authorized to convey water through city.

1. *BE IT ENACTED by the Senate and General Assembly of the State of New Jersey*, That the mayor and common council of Jersey City be, and are hereby authorized, in the manner herein after provided, to take and convey into and through Jersey City, and such other places adjacent thereto as may desire the same, such portion of the water of Passaic river, flowing between the villages of Acquackanonk and Belleville, as may be required to furnish the inhabitants of the said city, and others residing adjacent thereto, with a sufficient quantity of pure and wholesome water for domestic and other uses.

Commissioners to employ agents and assistants.

2. *And be it enacted*, That all authority granted or given by this act shall be exercised exclusively by and through a board of commissioners, to be appointed as herein after directed; and, in pursuance of this authority, the said commissioners may employ all proper engineers, surveyors, clerks, and other agents and assistants, necessary or convenient for accomplishing the purpose contemplated by this act, and may enter upon any land or water for the purpose of making surveys and examinations for the same.

Commissioners may take and hold lands, &c.

3. *And be it enacted*, That the said commissioners shall, for and in the name of the mayor and common council of Jersey City, take and hold any lands or other real estate necessary 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, or 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 works, and in general to do any other act necessary or convenient for accomplishing the purposes contemplated by this act; and may distribute the water throughout the corporate limits of Jersey City, and through

such portions of the townships of Bergen, North Bergen, Hoboken, and other places, as the inhabitants thereof may desire.

4. *And be it enacted*, That in case of any disagreement between the commissioners and the owner 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 in and for the county of Hudson shall, on the application of either party, nominate and appoint three disinterested persons to examine such property, and estimate the value thereof or damage sustained thereby; and who shall, after reasonable notice to the parties of the time and place where they will be heard in relation to the matter, proceed, without delay, to make their report thereon, and deliver the same to the court, at the next session thereof, which shall be held in the said county.

Proceedings in case owners of land and commissioners cannot agree.

5. *And be it enacted*, That whenever such report shall be confirmed by the court aforesaid, the commissioners 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 thereupon the mayor and common council of Jersey City shall become seized in fee of such property so required, and shall be discharged from all claim by reason of such damage; but no claim shall be made or allowed after the expiration of three years from the time the land is taken or the damage suffered.

Claims for damages to be made within three years.

6. *And be it enacted*, That the commissioners, in behalf of the mayor and common council of Jersey City, 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 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

Company may use ground or soil.

to be repaired ; and all damages to any company by any interruption of travel while the work is constructing, to be paid unto them.

Contracts to be made in writing.

7. *And be it enacted,* That all contracts for materials, or for the construction of the work, shall be made in writing, and of each contract three copies shall be taken, which shall be numbered with the same number, and endorsed with the name of the contractor and a summary of the work to be done or materials furnished ; one of such copies shall be deposited with the comptroller of Jersey City, or such other officer as the common council may direct, and one shall be retained by the commissioners.

Notice to be given of time for receiving proposals.

8. *And be it enacted,* That public notice shall be given of the time and place at which sealed proposals will be received for entering into contracts, by publishing the same in all the newspapers published in the county of Hudson, and in one or more newspapers published in the city of New York, for at least twenty days ; and all proposals for contracts shall be for a sum certain, as to the price to be paid or received ; and no proposition, which is not thus definite and certain, or which contains any alternative, condition, or limitation, as to price, shall be received or acted upon ; nor shall more than one proposition be received from any one person for the same contract, directly or indirectly ; and all the propositions of any person offering more than one shall be rejected ; and every person or persons proposing, as aforesaid, shall accompany such proposition with a bond, to be approved by the commissioners, conditioned to faithfully carry into effect his or their proposition, if accepted.

Contractors to give security.

9. *And be it enacted,* That every person who shall enter into any contract with the commissioners for the supply of materials or the performance of any work or labor, shall give satisfactory security for the faithful performance of his contract, according to its terms ; and no commissioner shall be interested, directly or indirectly, in any contract relating to said work.

Materials procured to be exempt from execution.

10. *And be it enacted,* That all materials procured, or partially procured, under contract with the commissioners shall be exempt from execution ; but it shall be the duty

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

11. *And be it enacted*, That, for the purpose of defray-<sup>Notes or scrip may be issued.</sup>ing all the expenses and the cost of such lands as shall be taken or purchased for the purposes of this act, and for constructing all works necessary to the full accomplishment thereof, and all expenses incidental thereto, and for the payment of necessary expenses incurred in making the examinations directed by the act approved the eighteenth day of March, eighteen hundred and fifty-one, the said board of commissioners shall have authority to issue, in the name of the said mayor and common council of Jersey City, notes or scrip, or certificates of debt, to be denominated on the face "Jersey City water scrip," to amount, in the whole, not exceeding six hundred thousand dollars, bearing an interest not exceeding six per cent. per annum; and said interest shall be payable semi-annually, and the principal of said debt shall be payable at periods not less than fifteen, or more than fifty years from date; and the commissioners may sell the same at public or at private sale, at such times as the proceeds thereof may be required for the construction of the works, or may pledge the same for money borrowed at a higher rate of interest, if, in their opinion, the necessities of the work required such proceeding; and, in addition to the said sum of six hundred thousand dollars, the commissioners may issue and dispose of scrip, in the manner herein before provided, to meet all payments of interest accruing upon any scrip by them issued as aforesaid; *provided however*, that no such scrip shall be issued by the <sup>Proviso.</sup> commissioners after the expiration of one year from the time that the works are so far completed as to furnish one million gallons of water per day; and the payment of all interest accruing after that time, beyond the amount which may be paid from the rents received for the use of the water, shall be provided for and paid by the mayor and common council of Jersey City, who are hereby authorized

and required to raise and assess for that purpose, by tax, such amount as may be necessary above the other taxes authorized by law ; *and provided also*, that no notes or scrip, or certificates of debt, shall be sold at public or private sale for less than the par value thereof, nor shall any higher rate of interest be paid for any sum of money borrowed on a pledge of said scrip than at the rate of seven per cent. per annum ; *and provided further*, that the work authorized or contemplated by this act shall not be commenced by the said commissioners until at least one half of the whole amount of money required for the said work shall be first had or secured ; all certificates issued as aforesaid shall be signed by the commissioners, or a majority of them, and countersigned by the mayor of Jersey City ; and a record of all certificates issued or disposed of shall be kept by the commissioners, and copies of such record shall be made and delivered to the treasurer of Jersey City ; all moneys received by the commissioners, shall be deposited by them in some bank or banks of good credit in the state of New Jersey or in the city of New York, and be made payable to the joint order of the president and at least two other members of the board only.

Books of accounts to be kept.

12. *And be it enacted*, That the commissioners shall keep regular books of accounts and books for recording the whole of their official proceedings ; and the said commissioners, and the clerks employed in their service, shall be sworn to the faithful performance of their duties ; and all such books shall be open to the examination of any person or persons appointed for that purpose by the mayor and common council of Jersey City ; the commissioners shall also, on the first Tuesday in January, and the first Tuesday in July, of every year, make a report to the said mayor and common council of the condition of the works under their charge, accompanied by a statement of their receipts and expenditures on account of the same.

Commissioners to regulate distribution of water.

13. *And be it enacted*, That the board of commissioners for the time being 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 other appliances, required and furnished for the purpose of extinguishment of fires, shall be placed as the mayor and common council of Jersey City shall direct, and shall be under their exclusive control and direction.

14. *And be it enacted*, That the owner and occupier of any house, tenement, or lot, shall each be liable for the payment of the price or rent fixed by the commissioners for the use of the water by such occupier, and such price or rent, so fixed, shall be a lien upon said house, tenement, or lot, in the same way and manner as other taxes assessed on real estate in Jersey city are liens, and shall be collected in like manner, if not previously paid to the commissioners.

15. *And be it enacted*, That the said commissioners shall make no contract 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.

16. *And be it enacted*, That it shall be the duty of the said commissioners to fix the price which shall be assessed upon each house or other building, and upon vacant lots, situated upon streets, lanes, alleys, or courts, that have been actually opened, or parts thereof, through or into which distributing pipes may be laid, and such prices shall be fixed with reference to ultimately paying, from the proceeds thereof, the interest and principal of the "Jersey City water scrip" aforesaid; and the net proceeds of the water rents, after paying all expenses for maintaining the works and distributing the water, and salaries, wages, and incidental charges, shall be applied, first to the payment of the interest upon the debt created for constructing the works, and next to the purchase of the scrip issued therefor, if the same can be obtained at reasonable prices, or if that cannot be effected, then to be safely invested and al-



lowed to remain as a sinking fund, to be applied to the redemption of the scrip, at its maturity.

Assessment  
for payment  
of interest on  
water scrip.

17. *And be it enacted*, That when the said commissioners shall certify to the mayor and common council of Jersey City that the works contemplated by this act are so far completed that the inhabitants thereof may be regularly supplied with a sufficient quantity of pure and wholesome water for domestic use, then the mayor and common council of Jersey City shall instruct the assessors of the said city to assess, annually, upon all grounds within their limits which are liable to taxation, a special tax, at the rate of two cents for each one hundred square feet of their surface; and the said special tax shall be a lien upon the lands so taxed, in the same manner as other taxes assessed on real estate in Jersey City are liens, and shall be collected in like manner, which amount shall be collected and applied to the payment of interest upon the water scrip, until the water rents, authorized to be collected by this act, shall amount to a sum sufficient to pay such interest as it accrues, after which the tax shall cease to be levied.

Disposition  
of income  
when scrip is  
paid.

18. *And be it enacted*, That when the scrip shall all be paid and cancelled, so much of the income derived from the works, as may be necessary therefor, shall be applied, by the commissioners, to the payment of salaries, wages, the cost of repairs, and other current expenses required for keeping the whole in good order and successful operation, and making such additions thereto as the wants of the citizens may require; and all moneys remaining after making the payments necessary for the purposes above mentioned, shall be paid, on the first Tuesday of each and every month, 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, which statement shall be verified by the affidavit of the clerk of the board of commissioners.

City liable  
for payment  
of interest  
and principal.

19. *And be it enacted*, That a majority of the said commissioners shall constitute a quorum for the transaction of

any business allowed or required by the powers or duties of their commission; and all contracts and engagements, acts and doings, of the said commissioners, 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 Jersey City; and the said mayor and common council, and all real estate within Jersey City, and all goods and chattels within said city, belonging to residents thereof, shall be liable for the payment of the principal and interest that may become due on the scrip or bonds to be issued by virtue of this act.

20. *And be it enacted*, That the said commissioners may prosecute or defend any action or process at law or in equity by the name of the "Water Commissioners of Jersey City," 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 suffered to the water, watercourses, 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 the board of commissioners, either before or after any cause of action arises or suit is commenced, shall not change the right of said commissioners, 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.

21. *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 commissioners, to be recovered in an action of trespass, triple the amount of damages which shall appear on trial to have been sustained; and all such acts are

Commissioners may prosecute and defend suits.

Penalty for injuring works.

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.

Sewers in  
Jersey City  
and Hobo-  
ken.

22. *And be it enacted*, That the said commissioners shall also cause such surveys and examinations to be made as may be necessary to enable them to decide upon and recommend a suitable plan for a general system of sewers for the whole district proposed to be supplied with water, and adapted for draining streets, houses, yards, markets, and all other places requiring to be drained, and shall estimate the probable cost of such sewers; and after such plan and estimates are made, copies thereof shall be furnished to the town committee of the township of Hoboken, and to the mayor and common council of Jersey City, for their consideration and approval; and if said plan shall be approved, no sewer shall thereafter be constructed, either in Hoboken or Jersey City, except in conformity with the said plan, and under the superintendence of the said commissioners and their engineer or inspector; but the cost of such sewers shall be assessed and collected in the same manner and by the same authority as the cost of sewers in those places has heretofore been assessed and collected, or in such other way as the legislature may hereafter direct.

23. *And be it enacted*, That any lands or real estate in the county of Hudson, taken, held, or occupied or used for the Jersey City water works, or any of the purposes thereof, shall be assessed and taxed in the said county, in the manner prescribed by law, at the value of the land, exclusive of any pipes, buildings, machinery, or works of any kind placed thereon; and the whole of the said works, exclusive of the land, shall be exempted from taxation.

First board  
of water  
commission-  
ers.

24. *And be it enacted*, That John D. Ward, Dudley S. Gregory, Moses B. Bramhall, the president of the board of aldermen of Jersey City for the time being, and one person to be elected at the next charter election held in Jersey City, shall constitute the first board of water commissioners; the said commissioners shall elect, annually, one of their number to be president of the board, and shall determine, by lot or otherwise, the terms during which the

four of the number, other than the president of the board of aldermen, shall hold their offices, and these shall be as follows: one of them shall remain in office three years, one four years, one five years, and one six years, all to be computed from the first day of May next ensuing; and the president of the board of aldermen for the time being shall, *ex officio*, be one of said board.

25. *And be it enacted*, That, at the charter election to be held in said city in the year eighteen hundred and fifty-five, and every year thereafter, there shall be elected one commissioner, who shall hold his office for four years next ensuing such election; and any vacancies that shall occur in said commission, by death, resignation, or otherwise, shall be filled by the common council of Jersey City, but the person or persons so appointed to fill such vacancy shall hold his or their offices only for the residue of the term for which they may be appointed; and each of said commissioners, except the president of the board of aldermen, who are appointed by this act, or who shall be elected or appointed under the provisions of this act, before entering upon the duties of his office, shall give a bond of twenty thousand dollars, with two good and sufficient sureties, to the mayor and common council of Jersey City, and to be approved by said mayor and common council, for the faithful performance of their duties as such commissioners.

Commissioner to give bond.

26. *And be it enacted*, That the said commissioners shall be entitled to take and receive, out of any moneys raised and appropriated for the construction of the Jersey City water works, such sum as the mayor and common council of Jersey City shall annually fix in full for their services, and shall also be repaid all reasonable travelling expenses incurred while employed upon the works; and they shall, at their first meeting after the organization of the board, fix and determine the proportions in which the said sum shall be paid to the several members thereof, and may, at their discretion, annually change such apportionment.

Compensation to commissioners.

27. *And be it enacted*, That the mayor and common council of Jersey City shall at any time remove any commissioner; *provided*, it shall satisfactorily appear, after rea-

Commissioners may be removed.

sonable notice to the parties, and hearing the causes of complaint, and answers thereto, if any shall be offered, that the commissioner whose removal is sought has been guilty of such maladministration, or such neglect of the duties of his office, that his removal will be right and proper, and two-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 shall take effect immediately.

Approved March 25, 1852.

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## CHAPTER CLXXV.

A further supplement to the act entitled, "An act to prevent, in certain cases, the abatement of suits and reversal of judgments."

Construction of former act. BE IT ENACTED *by the Senate and General Assembly of the State of New Jersey*, That the act entitled, "A supplement to the act entitled, an act to prevent, in certain cases, the abatement of suits and reversal of judgments," approved the seventh of March, one thousand eight hundred and fifty, shall not be deemed, taken, or construed to extend to any action brought more than twenty years prior to the passing of the said act, nor to cases where the heirs or devisees of the deceased defendant shall have sold the said lands to a bona fide purchaser previous to the passage of the said act.

Approved March 25, 1852.