

Law Association

# ACTS

OF THE

# Ninety-Seventh Legislature

OF THE

STATE OF NEW JERSEY,

AND

TWENTY-NINTH UNDER THE NEW CONSTITUTION.



MORRISTOWN, N. J.:

VANCE & STILES, STEAM POWER BOOK AND JOB PRINTERS.

1873

Proviso.

be proceeded against and sold in the manner and with the same effect as though such assessment had been made in the name of the real owner or owners thereof; *provided*, that in the advertisement of sale of such land or real estate, the name or names of the real owner, if discovered, shall be made to appear.

Commissioners authorized to change and amend names on schedules.

7. *And be it enacted*, That said commissioners shall have power, and they are hereby authorized, from time to time, to change, alter and amend the names appearing upon said schedules of valuation, whenever the same shall become necessary on account of change of owners or otherwise.

Repealer.

8. *And be it enacted*, That all acts or parts of acts, inconsistent with this act, be and the same are hereby repealed.

9. *And be it enacted*, That this act shall be taken and deemed to be a public act, and shall take effect immediately.

Approved April 2, 1873.

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## CHAPTER CCCCXXIX.

An Act to provide Newark and Jersey City, and other places, with an ample supply of Pure and Wholesome Water for domestic and other purposes.

Authority given to the Newark Aqueduct Board, and The Board of Public Works of Jersey City to furnish supply of water.

1. BE IT ENACTED *by the Senate and General Assembly of the State of New Jersey*, That The Newark Aqueduct Board and The Board of Public Works of Jersey City, and the successors of each, or such other boards or persons as may hereafter be vested with the control of the Newark and Jersey City water works, are each or either of them hereby authorized, in addition to the powers and authority now conferred on them by law, to take and convey, in the manner now provided by law, and as hereinafter specified, into and through Newark and Jersey City, and such other places as may desire the same, between the point or points of supply and said cities, such portion of the water, which they may acquire the right to take and use as hereinafter provided, as may be required to furnish the inhabitants of the said places with a sufficient quantity of pure and wholesome water for domestic and other purposes.

2. *And be it enacted*, That for the purpose of carrying out the objects and purposes of this act, the said The Newark Aqueduct Board and The Board of Public Works, or the successors in office and authority of each, or both of them, shall be and they are hereby authorized to form a joint board, with power to appoint officers, and to do all other things which may be necessary effectually to carry out the purposes of this act, and for the use, control and operation of such property as may be acquired under the same, and for such purposes are hereby authorized and empowered jointly or severally to exercise all powers heretofore conferred on either or both as well as those herein conferred; and the said joint board are also hereby authorized to delegate, to such committee or committees as they may appoint and designate, the discharge of any of the duties or powers herein granted.

Authorized to form a joint board, their powers and duties.

3. *And be it enacted*, That such joint boards and their successors in office and authority shall, in addition to the powers now conferred on either of said boards by law, (with the approval of the mayor and common council of Newark and the mayor and aldermen of Jersey City,) have the power to acquire by purchase or take in the manner hereinafter provided, and in the names of "The Mayor and Common Council of the City of Newark," and of "The Mayor and Aldermen of Jersey City," to hold any lands or other real estate containing or supplying water, and any ponds, lakes, mill ponds, mill sites, public or private waters and water rights, and any water ways, reservoirs, aqueducts, canals, conduits and water courses, in any part of this state, at an elevation which will afford a head sufficient to convey the said water to said cities by gravitation, and to acquire by purchase or take in the manner hereinafter provided, and hold as aforesaid, any water ways, water courses, canals, conduits, aqueducts, reservoirs, or other works for conveying or containing water, and in the same manner to acquire, take and hold any lands or other real estate necessary for the construction of any water ways, water courses, canals, conduits, aqueducts, reservoirs, or other works for conveying or containing water or for laying any pipes or conduits for carrying water from the point or points of supply, to, into and through the said places, to the end that an ample and sufficient supply of pure and wholesome water may be obtained and furnished to the inhabitants thereof.

Further powers of the joint boards.

Owners, occupants, &c., authorized to sell, lease and convey lands or interest in the same.

4. *And be it enacted*, That the owners, occupants, lessees or other parties, whether individuals or corporations, in interest or in possession of any of the said property, are hereby authorized to grant, bargain, sell and convey the same, or to assign or lease all or any part of their respective rights, title and interest in the same to the said The Mayor and Common Council of the City of Newark and The Mayor and Aldermen of Jersey City, or either of them and their successors in office or authority, either perpetually or for such shorter time and upon such rents and agreements as may be agreed upon between the said contracting parties; and thereafter the said The Mayor and Common Council of the City of Newark, The Mayor and Aldermen of Jersey City, and their successors in office or authority, and their licensees, shall have the right to the exclusive use and enjoyment of the said property so conveyed or demised for the term in said conveyance or lease mentioned, for the uses and purposes aforesaid.

Proceedings when parties cannot agree

5. *And be it enacted*, That in case of any disagreement between the said joint board or their successors in office or authority and any of said owners of any property aforesaid required for the said purposes, or the occupants, lessees or other parties interested therein as aforesaid, as to the amount of compensation to be paid to such owner or other party for the said property so required or for the damages to be sustained by the works proposed to be made or erected, or in case any such owner shall be an infant, or a married woman, or unknown, or insane, or shall be absent from this state, any justice of the supreme court of this state shall on the application of either party, upon reasonable notice served or published as the said justice may direct, nominate and appoint three disinterested persons commissioners to examine such property and estimate the value thereof or damage sustained thereby, and who shall, after twenty day's 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 and award thereon and deliver the same to the said supreme court at a present or next term thereof; and if either party shall feel aggrieved by the report and award of the commissioners so to be appointed by virtue hereof, such party may appeal to the next term of the supreme court or the circuit court of the county in which the property in question may be situate,

Proceeding in case of appeal.

which appeal shall be by petition and notice thereof, served as said court shall direct, which petition and notice shall vest said court with full power to hear and determine said appeal according to the practice of the court, and the court if required shall order a jury to try said appeal under the direction of the court, and also shall have power to order a struck jury or a jury of view or both, and said court or the judge who shall try said appeal may order any jury empannelled to try such appeal to view the premises in question during the trial and the right of either party to appeal from said report or award of said commissioners shall not be waived or lost by the tender of the amount awarded by the one party or the acceptance of it by the other party, and upon the final determination of said appeal the court shall render judgment in favor of the one party and against the other as the right and justice of the case may require, and shall award to the party substantially succeeding, the costs of such party against the other party and shall have power to enforce the judgment so rendered by execution as other judgments are enforced, and also by mandamus and by summary proceedings and attachment as the case may require.

6. *And be it enacted.* That whenever such report shall be confirmed by the court aforesaid, the said The Mayor and Common Council of the city of Newark and The Mayor and Aldermen of Jersey City shall, within two months thereafter each pay to the said owner, occupant, lessees, or other parties as aforesaid or as the said court may direct one half of the sum mentioned in the said report in full compensation for the property so required or for the damages sustained, and thereupon the said The Mayor and Common Council of the City of Newark and The Mayor and Aldermen of Jersey City shall become seized in fee of such property so required, "or of such estate in said land and property as the former owner or occupant was seized or possessed of at the date thereof," and shall be discharged from all claim by reason of said damage, and shall hold the said property free and clear of all duties and liabilities imposed upon the same, except for taxes and assessments for public purposes and improvements, and the former owner, occupant or lessee of any property acquired by the authorities of said cities under and for the purposes set forth in this act, shall be from thenceforth discharged of

Proceedings  
when report  
has been con-  
firmed.

and from all actions, penalties and fines incurred thereafter for any failure to perform any duty or obligation imposed by law in reference to said property or its use, or for any damages arising from said failure or neglect or change of purpose and objects; or for any claims or damages growing out of any diversion or change in the course or direction of water lying or flowing on or from any property required under this act; and the said The Mayor and Common Council of the city of Newark and The Mayor and Aldermen of Jersey City shall indemnify and save harmless all and every such former owner, occupant or lessee of and from all damages, loss and actions in reference to the said property or its use for the purposes herein expressed; *provided*, that when any portion of any public improvement is taken by virtue of this act the ownership of the remaining portion of said improvement shall remain vested in the former owner as fully as though such portion had not been taken by said boards; *and provided, further*, that nothing in the two preceding sections shall in anywise authorize the taking by condemnation any of the rights of the society for establishing useful manufactures or of the Morris Canal and Banking Company, or of the owners of the Bounton Iron Works.

Proviso.

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Empowered to construct works and to use the ground under streets or highways.

7. *And be it enacted*, That the said joint board or their successors in office or authority, in behalf of The Mayor and Common Council of the city of Newark, and the Mayor and Aldermen 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 thereof to be restored to its original state, and all damages thereto to be repaired, and are invested with full power and authority to carry the water across any navigable or other stream, river or bay, by means of pipes or conduits laid or placed over the same or in the bed of such stream, river or bay, so that the top thereof shall not be above the present bed of the channel in such manner as not unnecessarily to interfere with the navigation thereof.

8. *And be it enacted*, That whenever the inhabitants of any place or places lying between the source or sources of supply and the said city of Jersey City, or along the line of

water transit or adjacent thereto, or so situated that it or they could be supplied from the water channel, aqueduct or reservoirs hereby authorized, by means of pipes or conduits connected therewith, and shall desire a supply of pure and wholesome water, the said joint board or its successors in office or authority, may permit the said water channel, aqueduct or reservoirs to be tapped at such point or points as will be most for the convenience of said place or places without material injury to the said works or to the supply of water to places below such point, and permit the connection with the said water channel, aqueducts or reservoirs, at such point or points of pipes, mains or conduits, to conduct water to such place or places, and grant licenses to the authorities of such place or places, to use so much of the said water as may be necessary for domestic and other purposes, upon said authorities paying or securing to be paid such proportion of the expense theretofore incurred, or an annual rent, as may be mutually agreed upon by the said authorities of said place or places, and the said joint board or its successors in office or authority, and such municipal authorities are hereby authorized to make and enter into any such agreement, and to take such license, and if such rent or share of expenses cannot be mutually agreed on, the party desiring to take water from the main works, may apply to a justice of the supreme court for the appointment of commissioners to fix the said rent or share of expenses in the mode provided for in the fifth section hereof, and subject to the right of appeal therein provided for.

The joint boards may cause water to be supplied to inhabitants adjacent to or along the line of water transit.

9. *And be it enacted*, That for the purpose of defraying the expense and cost of such property as shall be taken or purchased for purposes herein contemplated, and for constructing all works necessary thereto, the mayor and common council of the city of Newark, and the mayor and aldermen of Jersey City, shall each or either of them have power to order the issue of the bonds of their respective cities sufficient to defray the said expense and cost, in addition to the amounts now authorized by law for water purposes, to an amount not exceeding two million dollars each; said bonds to bear interest, payable semi-annually, not exceeding seven per centum per annum, and the principal payable in not less than fifteen nor more than fifty years from date of issue, and the said The Mayor and Common Council of the city of Newark and The Mayor and Aldermen of Jersey

Authorized to issue bonds to defray expense and cost.

City, shall from time to time cause the said bonds to be sold at public or private sale, at not less than ninety-five per centum of their par value, as the proceeds thereof may be required for the purposes aforesaid, or may issue the same in payment for property purchased, and deliver them at the said rate to the person, party or parties from whom the same is purchased, and the payment of all interest accruing on said bonds beyond the amount which may be paid from the rents received for the use of water, shall be provided for and paid by The Mayor and Common Council of the city of Newark and The Mayor and Aldermen of Jersey City, or such other board as may be authorized, in equal proportions; and they are hereby authorized and required to assess and raise by tax such amount as may be necessary for the purpose, and a record of all such bonds issued or disposed of shall be kept by the proper officers designated by the authorities hereto, and copies of such records shall be made and delivered to the treasury of Newark and Jersey City, and all moneys received therefrom shall be paid to the city treasurers of said cities respectively.

The failure of either city to proceed jointly not to debar the other from providing itself with water.

10. *And be it enacted*, That in case of failure of either one of said cities to proceed jointly as in this act provided, within a reasonable time, any such refusal or neglect shall not debar or prevent the other from proceeding and taking the necessary measures to provide itself with pure and wholesome water, for domestic and other purposes as aforesaid, and in such event, and for that purpose, either one of said cities of Newark or Jersey City through their appropriate authorities, may proceed separately from the other by and for itself; and for said purpose all the powers, rights and privileges granted in the foregoing act to both of said cities, are hereby granted to and conferred on the one electing to avail itself thereof, and said city is in such case hereby authorized to raise a sufficient amount to defray the whole cost and expense, and shall pay the whole amount to be paid to any person or party for property instead of one-half as above provided.

11. *And be it enacted*, That this act shall take effect immediately.

Approved April 2, 1873.