

New Jersey Laws 1868  
**ACTS**

OF THE  
**NINETY-SECOND LEGISLATURE**  
OF THE  
**STATE OF NEW JERSEY,**  
AND  
**TWENTY-FOURTH UNDER THE NEW CONSTITUTION.**



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1868.

## CHAPTER CCCLIX.

An Act to authorize the construction of works for supplying the city of Rahway and places adjacent with pure and wholesome water.

1. BE IT ENACTED *by the Senate and General Assembly of the State of New Jersey*, That the mayor and common council of the city of Rahway be and are hereby authorized, in the manner hereinafter provided, to take and convey into and through said city, and such other places adjacent thereto as may desire the same, such portion of the water of the Rahway river, or either of its branches, 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.

Water to be supplied from the Rahway river.

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 hereinafter 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.

Proper persons to be employed to make surveys.

3. *And be it enacted*, That the said commissioners shall, for and in the name of the mayor and common council of the city of Rahway, take and hold any lands or other real estate necessary for the construction of any canals, aqueducts, reservoirs, basins, or other works for raising, 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 Rahway, and through such portions of other places, as the inhabitants thereof may desire; *provided*, that no agreement for introducing or furnish-

Commissioners to take and hold real estate necessary for construction of works.

Proviso.

limits of the city of Rahway shall be made without the concurrence of the common council of said city of Rahway.

Proceedings when commissioners and owners of land cannot agree.

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 Union shall, on the application of either party, nominate and appoint three disinterested persons to examine such property, and estimate the value thereof or damages 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.

Further proceedings.

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 the city of Rahway 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.

Damages to any road, railroad, street, &c. to be repaired.

6. *And be it enacted*, That the commissioners, in behalf of the mayor and common council of the city of Rahway, and all persons acting under their authority, shall have the right to use the ground or soil under any avenue, road, railroad, highway, street, lane or alley within this state, for the purpose of constructing the works contemplated by this act, on condition that they shall cause the surface of such avenue, road, railroad, highway, street, lane or alley to be restored to its original state, and all damages done thereto 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 shall be made in writing.

7. *And be it enacted*, That all contracts for materials for the construction of the work, or any part of said work, involving an expenditure of the sum of five hundred dollars or

over, 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 treasurer of the city of Rahway, and one shall be retained by the commissioners.

8. *And be it enacted*, That all proposals for entering into contracts shall be publicly opened in the presence of those who choose to attend; not more than one proposition shall be received from any one person for the same contract, directly or indirectly, and all propositions of any person offering more than one shall be rejected; and every person or persons proposing shall furnish with his proposal satisfactory evidence of his ability to carry out his proposition.

Proposals for contracts to be publicly opened.

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 or officer employed by said board, or member of the common council of said city shall be interested, directly or indirectly, in any contract relating to said work.

Contractors to give security.

10. *And be it enacted*, That all materials procured, or partially procured, under contract with said 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.

Materials to be exempt from execution.

11. *And be it enacted*, That for the purpose of defraying all the expenses and the cost of such lands, buildings or water privileges as shall be taken or purchased for the purposes of this act, and for the purchase of materials and constructing all works necessary to the full accomplishment thereof, and all expenses incidental thereto, the said board of commissioners shall have authority to issue, in the name of the said mayor and common council of the city of Rahway, bonds to be denominated on their face "Rahway City Water Bonds," to an amount in the whole not exceeding two hundred thousand dollars, bearing interest at the rate of seven per centum

Commissioners shall have power to issue bonds.

Amount of bonds that may be issued.

per annum, and the said interest shall be payable semi-annually; and the principal of said debt shall be payable at periods not less than ten nor more than fifty years from date; and the commissioners may sell the said bonds to parties offering to take the same, on the most favorable terms, after giving not less than twenty days' notice of such sale in one or more newspapers published in the cities of New York, Newark and Rahway; and in case the revenue received by the said commissioners shall not in any year be sufficient to pay the interest and all necessary expenses of said work, an amount equal to such deficiency shall be provided for and paid by the mayor and common council of the city of Rahway, 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; *provided*, that the commissioners may require bidders proposing to furnish materials or construct said works to designate the rates at which they will furnish such materials or construct such works, or any portion thereof, payable in bonds; and all bonds issued by said commissioners shall be signed by a majority of the board, and countersigned by the mayor of the city of Rahway; and a record of all bonds issued or disposed of shall be kept by said commissioners, and copies of such record shall be made and delivered to the treasurer of the city of Rahway; all moneys received by the commissioners shall be deposited in any bank or banks to be designated by a majority of the said commissioners, and be made payable to the joint order of the president and at least two other members of the board only.

Proviso.

Books of accounts shall 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 the city of Rahway; 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 shall regulate the distribution of water, &c.

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 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 Proviso. all hydrants, conduits, or other appliances, required and furnished for the purpose of extinguishment of fires, shall be placed as the common council of the city of Rahway shall direct, and shall be under their exclusive control and direction.

14. *And be it enacted*, That the owner and occupier of any Powers of commissioners. 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 the city of Rahway are liens, and shall be collected in like manner, if not previously paid to the commissioners; and the said board shall have authority to require payment in advance for the use or rent of water furnished by them in or upon any building, place or premises, and in case prompt payment for the same shall not be made, they may shut off the water from such building, place or premises, and shall not be compelled again to supply said building, place or premises with water until said arrears, with interest thereon, shall be fully paid.

15. *And be it enacted*, That the said commissioners shall Contracts for price of using water to be limited to three years. 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 said Commissioners to fix the water rents. water commissioners, from time to time, to fix the prices which shall be charged for the use of the water, where the same is taken and used, and the owner and occupier of any house, lot or tenement, shall each be liable for the price so fixed; and the said commissioners shall also, from time to time, fix a sum to be assessed annually upon all vacant lots and lots with buildings thereon in which the water is not taken, if the same are situated upon any road, avenue, street, lane or alley in the city of Rahway, through or in which pipes for distributing the water are laid, which prices and sums so fixed and assessed shall be denominated "water rents;" and the said water commissioners shall, from time to time, deter-

mine and give public notice of the times and places at which the said water rents shall be due and payable, and the penalties to be charged for delaying the payments beyond the times so fixed; and the said water rents and penalties shall, until paid, be liens upon the property charged therewith; and a certified account of all such water rents and penalties for delinquency as remain unpaid at that date shall, on the twentieth day of December in each year, be delivered by the water commissioners to the mayor and common council, to be collected, under their direction, in the same manner that arrears of taxes are collected, and interest shall be charged and collected thereon at the same rate; and all laws of the state of New Jersey, and ordinances of the mayor and common council of the city of Rahway, relating to the collection of arrears of taxes, shall be good and valid for the collection of arrears of water rents and penalties legally assessed or imposed by the water commissioners of the city of Rahway; and the amount of such arrears and interest, when collected, shall be paid to the said commissioners.

Provision for the payment of interest and purchase of water bonds.

17. *And be it enacted*, That the water commissioners of the city of Rahway shall fix the aforesaid water rents or prices for water, and assessments upon property situated where distributing pipes are laid, with reference to paying from the proceeds thereof the interest and principal of the "Rahway City Water Bonds," as they respectively fall due; and such portions of the moneys received by the said commissioners as may remain after paying all expenses for constructing and maintaining the works and raising and distributing the water, and salaries, wages, and incidental charges, shall be applied, first, to the payment of interest upon the debt created for the construction of the works, and next, to the purchase of the bonds issued therefor, if the same can be obtained at reasonable rates, or if that cannot be effected, then to be safely invested by the said water commissioners, and allowed to remain as a sinking fund, to be applied to the payment of the bonds at maturity.

Yearly estimates of receipts and expenditures shall be made for the ensuing year.

18. *And be it enacted*, That the water commissioners shall, on or before the first Tuesday of May in each year, make a careful estimate of the interest on the water debt, and cost of managing and keeping in repair and operation of water works for the ensuing year, and of the amount to be received during the same year for the use of water and water rents, and of the deficiency, if any, of such receipts for the payment of

such expenditures, and report the same in writing to the said common council; and said deficiency said city shall raise by tax, as other city taxes are levied and collected; and said water commissioners shall, in case of any estimated deficiency, furnish a copy of said reports to the assessors of taxes in said city.

19. *And be it enacted*, That it shall be the duty of the assessors of said city to add to the sum so reported three per centum, to cover losses and contingencies, and to assess such sum so increased upon all taxable property in said city in the same manner as other taxes are assessed; and said tax shall be collected by the tax receiver and other officers of said city and if not paid at the time required by law for other city taxes, shall be collected by warrant and by sale, in the same manner as other city taxes are collected in said city, and shall be a lien upon the property whereon the same are assessed, in like manner.

Duty of the assessors.

20. *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 the city of Rahway; and the said mayor and common council and all real estate within said city, and all goods and chattels within said city, belonging to residents thereof shall be liable for the principal and interest that may become due on the bonds to be issued by virtue of this act.

Quorum.

21. *And be it enacted*, That the said commissioners shall have power to make rules and regulations respecting the introduction of water into or upon any premises, and from time to time to regulate the use thereof in such manner as shall seem to them necessary and proper; and the members of said board and all engineers, superintendents or inspectors in their service are hereby authorized and empowered to enter at all reasonable hours any dwelling or other place where said water is taken or used, and where unnecessary waste thereof is known or suspected, and examine into and inquire the cause thereof; they shall have full power to examine all service pipes, stop cocks and other apparatus connected with said works for the purpose of ascertaining whether the same are of the character and dimensions and fixed in the manner di-

Powers and duties of commissioners.



rected in the permits issued therefor; and if any person or persons shall refuse to permit such examination or oppose or obstruct such officer in the performance of such duty, he, she or they so offending shall be liable to such penalty, not exceeding ten dollars for each offence, as the said board may impose, and the supply of water may also be shut off until the required examination is made, and such alterations and repairs are completed as may be necessary.

Suits to be prosecuted by and defended in the name of the commissioners.

22. *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 the City of Rahway," 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.

Penalty for injuring works, &c.

23. *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 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.

Names of first commissioners.

24. *And be it enacted*, That A. Maurice, J. Henry Stone James Vanderhoven, John H. Durand and the mayor of the city for the time being, 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 mayor of the city shall hold their offices, and these shall be as follows: one of them shall remain in office one year, one two years, one three years and one four years, all to be computed from the second Tuesday of May next ensuing; and the mayor of the city for the time being shall, *ex officio*, be one of the board.

25. *And be it enacted*, That at the charter election to be held in said city in the year eighteen hundred and sixty-nine 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 the city of Rahway, 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 mayor of the city of Rahway, 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 ten thousand dollars, with two good and sufficient sureties, to the mayor and common council of the city of Rahway and to be approved by said mayor and common council for the faithful performance of their duties as such commissioners.

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 Rahway water works such sum as the mayor and common council of the city of Rahway shall annually fix in full for their services, and shall also be repaid all reasonable traveling 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.

27. *And be it enacted*, That the mayor and common council of the city of Rahway shall at any time remove any commissioner; *provided*, it shall satisfactorily appear, after reasonable 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

Vacancies,  
how filled.

Mayor and  
common  
council shall  
annually fix  
compensation  
of commis-  
sioners.

Any commis-  
sioner may be  
removed.

Proviso.

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.

Provisions shall remain inoperative until assented to by a majority of votes.

28. *And be it enacted*, That this act shall take effect immediately; but its provisions shall remain inoperative until assented to by a majority of the electors voting at an election to be held in said city, of which election the same notice shall be given as is required to be given for the annual charter election.

Approved April 7, 1868.

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## CHAPTER CCCLX.

An Act to provide for the cession of a portion of the road of the Newark and Pompton Turnpike Company to the City of Newark.

Copy of act of cession and transfer to be filed.

1. BE IT ENACTED *by the Senate and General Assembly of the State of New Jersey*, That whenever the Newark and Pompton turnpike company shall cede and transfer to the city of Newark so much of their turnpike road as lies within the corporate limits of the said city, and shall file one copy of their act of cession and transfer in the office of the secretary of state of this state, and another copy in the office of the city clerk of said city of Newark, the said Newark and Pompton turnpike company shall be released and discharged from all authority and control over that part of their said road, and from all liability on account of the same, and the same shall thenceforth be, to all intents and purposes, a public street or highway of the said city of Newark, and the common council of said city shall have and exercise the same jurisdiction, authority and control over the same as over the other streets and highways of the said city; *provided*, that nothing in this section contained shall be so construed as to prevent the said Newark and Pompton turnpike company from charging and collecting the same tolls upon their said road, in the places heretofore used for that purpose, and as their charter and its amendments provide, as if this act had not been passed, but no toll gate shall be erected or used in the city of Newark.

Proviso.