

THE
STATUTES OF CALIFORNIA,

PASSED AT THE

Fourteenth Session of the Legislature,

1863:

BEGUN ON MONDAY, THE FIFTH DAY OF JANUARY, AND ENDED ON MONDAY,
THE TWENTY-SEVENTH DAY OF APRIL.



SACRAMENTO:
BENJ. P. AVERY, STATE PRINTER.

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1863.

CHAP. CCCVI.—*An Act to provide for the Improvement and Protection of the Wharves, Docks, and Water Front, in the City and County of San Francisco.*

[Approved April 21, 1863.]

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

Commiss-
ioners.

SECTION 1. A Board of three Commissioners is hereby created, which shall be known as the Board of State Harbor Commissioners, (by which name they may sue, and be sued, and defend, in all cases arising under this Act, in any Court of competent jurisdiction); one of whom shall be elected by the qualified electors of the State, at the same time and in the same manner as members of the Assembly are elected; one of them shall be elected by the members of the Senate and Assembly, in Joint Convention, on such a day and at such an hour as may be agreed to by both Houses; and one shall be elected by the

Election of.

qualified electors of the City and County of San Francisco, at

the same time and in the same manner as municipal officers are elected in said city and county. Each of said Commissioners shall hold his office for the term of four years, and until his successor is elected, commissioned, and qualified, as in this Act provided, except the Commissioners first elected, who shall hold their offices as follows, viz: the first Commissioner elected by the Legislature in Joint Convention, shall be elected at the present session, and shall hold his office for one year from the date of the first meeting of the Board, as in this Act provided, and until his successor is elected and qualified; the first Commissioner elected by the qualified electors of the City and County of San Francisco, shall hold his office for two years, and until his successor is elected and qualified; and the first Commissioner elected by the qualified electors of the State, shall hold his office for four years, and until his successor is elected and qualified. The first Commissioner elected by the qualified electors of the State, shall be elected at the general election in eighteen hundred and sixty-three; and the first Commissioner elected by the qualified electors of the City and County of San Francisco, shall be elected at the election for municipal officers in said city and county, in eighteen hundred and sixty-three. Each of said Commissioners shall, before being commissioned as hereinafter provided, give to the State of California a bond, in the sum of fifty thousand dollars, with two or more sureties, conditioned for the faithful performance of the duties required of him under this Act, which bond shall be approved by the Governor and State Treasurer in writing, indorsed thereon, and shall be filed in the office of the Secretary of State. The Commissioners shall also take and subscribe the usual oath of office, which shall be filed in the office of the Secretary of State. As soon as may be after any one of the Commissioners elected under this Act shall have delivered to the Secretary of State the bond and oath required of him in this section, the Governor shall issue to such person a commission, which shall authorize him to perform the duties required of him by this Act. Such Commissioners shall not be sureties for each other on their official bonds, nor shall any State officer or member of the Legislature be accepted by the Governor and State Treasurer as surety on said bonds.

SEC. 2. As soon as all three of the Commissioners created by this Act shall have received their commissions, they shall take possession of and hold all that portion of the Bay of San Francisco lying along the water front of said City and County of San Francisco, and adjacent thereto, to the distance of six hundred feet into the waters of said bay, from the line of the water front, as defined by an Act of the Legislature, approved March twenty-sixth, one thousand eight hundred and fifty-one, together with all the improvements, rights, privileges, franchises, easements, and appurtenances connected therewith, or in any wise appertaining thereto, excepting such portions of said water front as may be held by parties under valid leases; and the Commissioners shall also take possession and have control of any and all such portions of said water front, with the improvements, rights, privileges, franchises, easements, and appurtenances, as are held under valid leases, as soon as said leases shall respectively expire and become void. The Commissioners shall,

Terms of
office.

Bonds.

Oath of office

Governor to
commission.Powers and
duties of
Commissioners.

Duties of
Com-
missioners.

as soon as may be after entering upon their duties under this Act, investigate and ascertain by what authority any portion of said water front is possessed and held by persons or parties adversely to the possession of the State through such Commissioners, and shall publish the result of their investigations in one of the newspapers printed and having the largest circulation in said City and County of San Francisco; and if any person or company in the possession of any portion of said water front, holding the same adversely to the State, shall, when required by the Commissioners to make known to them the authority by virtue of which such person or company claims to hold such possession, refuse or neglect to make the same known, the Commissioners shall institute such legal proceedings as may be necessary to discover the nature of such authority; and the costs of such proceedings shall be paid and recovered from the person or company in such adverse possession and so refusing. The said Commissioners are hereby authorized and empowered to institute actions at law or in equity for the possession of any wharf or wharves, or other rights, privileges, franchises, etc., named in this section, or for the recovery of the tolls, dockage, rents, and wharfage thereof; also, for the removal of obstructions, and abatement of any and all nuisances on the water front mentioned in this Act, and to prosecute the same to final judgment.

Sec. 3. The Commissioners shall have and hold possession and control of said water front, with the improvements, rights, privileges, franchises, easements, and appurtenances connected therewith, or in any wise appertaining thereto, for the following purposes and uses:

First—To keep in good repair all the sea walls, embankments, wharves, piers, landings, and thoroughfares, for the accommodation and benefit of commerce.

Second—To dredge such number of the docks as the commerce of the harbor may require, to a depth that will admit of the easy ingress and egress of the vessels which load and unload at said wharves and piers.

Third—To construct such new wharves, piers, landings, and thoroughfares, at the foot of the streets, as the wants of commerce may require.

Fourth—To construct all works necessary for the protection of wharves, piers, docks, landings, and thoroughfares, and for the safety and convenience of shipping.

Fifth—To provide for the construction, out of the surplus funds growing out of the revenues arising from said wharves, such sea wall or other structure along the water front of said City and County of San Francisco, as shall, upon accurate surveys made for that purpose, be found to be necessary for the protection of the harbor and water front of said city and county. The said structure or sea wall shall be commenced at some point between Harrison street and Vallejo street, upon said water front, and shall be completed between said streets before any work upon said structure or sea wall is done north of Vallejo street or south of Harrison street.

Sixth—To collect such rents, tolls, wharfage, craneage, and dockage, as may, from time to time, be fixed under the author-

ity of this Act, and to disburse and dispose of the revenues arising therefrom as in this Act provided.

SEC. 4. The Commissioners shall appoint some suitable person to Act as Secretary of said Board, who shall not be a member thereof. The Secretary, before entering upon the duties of his office, shall give to the State of California a bond, with two or more sureties, in the sum of ten thousand dollars, conditioned for the faithful performance of his duties under this Act, which bond shall be approved by the Commissioners, in writing, and filed with the Secretary of State. The Secretary shall keep, in suitable books, a record of all moneys received and disbursed by said Commissioners, and also of all contracts and agreements made and entered into by them, which record shall be open to the inspection of the public during the usual business hours. The Secretary shall perform such other duties properly pertaining to the duties of a Secretary as may be required of him by the Board. He shall, also, on the first Monday in January, April, July, and October, in each year, file, under oath, in the office of the Secretary of State, a statement, in the form of a balance sheet, containing a full exhibit of all moneys received and disbursed, the sources from which the same were received, and the purposes for which such monies were paid out.

SEC. 5. Whenever any wharf or wharves shall come into the possession of the Commissioners, under section two of this Act, they shall proceed to lease the same, separately, for terms not exceeding three years. Before leasing any wharf or wharves, they shall advertise for at least thirty days in a daily newspaper published in the City and County of San Francisco, having the largest circulation, inviting sealed proposals or bids for leasing, separately, such wharf or wharves. Such advertisements shall contain all necessary information in regard to the terms of the leases to be made, and such lease or leases shall be awarded to the highest responsible bidders; *provided*, that if all such bids are, in the opinion of the Commissioners, unreasonably low, they may reject them all, and advertise for further bids in like manner as before. In such leases, the Commissioners shall make such provision, not inconsistent with this Act, for the proper dredging of the docks, repair of wharves, and construction of all works necessary for the protection of wharves, docks, and landings, as in their opinion the safety and convenience of shipping may require. Should the Commissioners be unable to lease any wharf or other work coming into their possession, they shall employ some suitable person to collect the revenue which may arise from such wharf or other work, and pay him a proper compensation therefor, not exceeding the rate of one hundred and fifty dollars per month, and not in any case exceeding the amount by him collected. They shall require each person so appointed to keep a correct account of all moneys by him collected, in suitable books to be furnished him by the Commissioners, which books shall be open to the inspection of the public at all reasonable times. They shall require each person so appointed to pay over to them or to the Secretary of the Board all moneys by him collected, as often as once in each week; *provided*, that no wharf

Secretary of Board.

Bond of.

Duties of.

Commissioners to lease wharves.

Provide.

Duties of Commissioners.

Commissioners.

capable of being leased for a sum greater than one hundred and fifty dollars per month, over and above the expense of keeping the same in repair and dredging the docks adjoining the same, shall be retained in the possession of the Commissioners by virtue of the last preceding part of this section, for a longer time than sixty days, without re-advertising the same. The provisions of this section shall apply to all new wharves and other works constructed under the direction of the Commissioners, as soon as the same are completed and ready for use. Neither one of the Commissioners, nor the Secretary, shall ever be interested in any lease or contract made under the provisions of this Act.

Office of, and powers and duties.

Sec. 6. The Commissioners shall keep an office in the City and County of San Francisco, the rent of which shall not exceed fifty dollars per month. The office shall be kept open by the Secretary of the Board during all business hours. The Commissioners shall purchase a suitable safe and office furniture, at a cost not exceeding one thousand dollars, and shall also purchase, from time to time, suitable books for the records of the Secretary and accounts of the Wharfingers, together with such stationery as may be needed by the Board, the cost of which safe, furniture, books, stationery, and office rent, may be paid out of any moneys collected for tolls, rents, wharfage, and dockage. The title to all property purchased by moneys collected under this Act, together with all books of record, books of account, and all documents of whatsoever kind connected with the business of the Board, and properly pertaining thereto, shall be in the State.

Disposition of moneys.

Sec. 7. All moneys collected under this Act shall be paid into the State Treasury by the Commissioners as often as once in each month, excepting the salaries of the Commissioners, Secretary, and Wharfingers, the office rent, cost of the safe, office furniture, books, stationery, lights, and fuel, and all necessary expenses for the improvement and repair of the wharves, not exceeding three thousand dollars per annum, which amount the Commissioners are authorized to expend only in making repairs demanded by urgent necessity, without advertising for proposals; and it shall be the duty of the Commissioners to take vouchers for all sums of money expended by them under this Act, and safely keep the same on file in the office of the Board. For all sums of money paid by the Commissioners, excepting those above named in this section, they shall draw their orders on the Controller of State, which orders shall be countersigned by the Secretary of the Board, and the Controller of State shall draw his warrant on the State Treasurer, who shall pay the same out of any money in the Wharf and Dock Fund. No warrant shall be drawn by the Controller upon the State Treasurer, as provided in this section, unless the order shall bear the signatures of all three of the Commissioners and the Secretary.

State Wharf and Dock Fund, and duties of State Treasurer.

Sec. 8. It shall be the duty of the State Treasurer to receive all moneys paid into the State Treasury by the State Harbor Commissioners, and keep the same in a separate Fund, to be known as the State Wharf and Dock Fund, and pay out the same as provided in section seven of this Act. The State Treasurer shall keep an accurate account of all moneys received into

the State Treasury and paid out under this Act, in books kept solely for that purpose.

Sec. 9. It shall be the duty of the Commissioners to make all improvements deemed necessary, and to designate the time and manner of making the same. When they shall determine that repairs shall be made, a new wharf constructed, a dock dredged, or other improvements made, they shall advertise for sealed proposals, for at least thirty days, in one of the newspapers printed and published in the City and County of San Francisco having the largest local circulation, and let out all contracts made to the lowest responsible bidder. The advertisements for proposals for contracts shall contain an accurate description of the work to be done, with a full description of the materials to be used, and such other details as may be necessary to a correct understanding of the entire work to be performed. On a day certain, to be named in the publication, the Commissioners shall open the bids in the presence of such of the bidders as may be present, and award the contract to the lowest responsible bidder, who shall furnish sufficient sureties to guarantee a performance of the work; *provided*, that if, in the opinion of the Commissioners, the bids are unreasonably high, they may reject them all and advertise anew, in like manner as before. And if, in the opinion of the Commissioners, the second set of bids are also unreasonably high, they may reject them likewise, and enter into a contract with responsible parties without giving further public notice; *provided*, further, however, that any such contract entered into without giving public notice, shall be at least five per cent less than the lowest bid rejected as provided in this section.

Sec. 10. Every wharf and pier hereafter constructed shall commence at the foot of some street, as laid down on the official map of the City and County of San Francisco, and shall extend into the bay in a direct line with such street. No wharf or pier hereafter constructed shall ever be extended into the bay more than six hundred feet beyond the water front of said City and County of San Francisco, as established by an Act of the Legislature, approved March twenty-sixth, one thousand eight hundred and fifty-one. All of the spaces bounded by the said water front and a line parallel thereto, and six hundred feet therefrom, in said bay, and lines running from the termination of the lines of said streets and in a straight course with said lines to the line in the bay six hundred feet from said water front, shall be used solely and exclusively for docks, quays, landing places, and thoroughfares forever, and said spaces are hereby dedicated to the aforesaid uses forever.

Sec. 11. The Commissioners shall, from time to time, fix the rates of tolls, wharfage, and dockage (which shall not at any time exceed the present rates) to be collected, keeping in view that no more money is to be raised therefrom than is necessary, with the amount of money derived from the rental of wharves, to keep the wharves, piers, landing places, and thoroughfares in good repair, to construct such new wharves, piers, landing places, thoroughfares, and other works, as the convenience of commerce and protection of the harbor may require, and to protect and dredge the docks and quays. The rates of tolls, wharfage, and

Improvements by Commissioners.

Letting of contracts.

Proviso.

Proviso.

Construction and condition.

Tolls, wharfage, etc.

dockage, fixed as provided in this section, shall be subject to revision by the Legislature. No greater amount of money shall, in the main, ever be raised by the collection of tolls, rents, wharfage, and dockage than is necessary to keep the sea walls, embankments, wharves, piers, landing places, and thoroughfares in good repair, construct new ones, dredge and protect the harbor, docks, and quays, and pay the incidental expenses connected therewith. No tolls shall ever be collected of pedestrians, or upon any baggage or package they may carry.

Obligations,
contracts,
etc.

Validity of.

SEC. 12. No contract or obligation entered into by the Commissioners under this Act, which creates a liability, or authorizes the payment of money, shall be valid and of binding force unless the same shall be signed by all three of said Commissioners, and countersigned by the Secretary of the Board, and no obligation or contract of any kind whatsoever, involving an expenditure of money, shall ever be entered into or contracted by the Commissioners, unless there is money in the Wharf and Dock Fund or Harbor Protection Fund sufficient to pay the same.

Report by
Com-
missioners.

SEC. 13. The Commissioners shall, on or before the first Monday of November in each year, make to the Governor a full report of all moneys by them received and disbursements made under this Act, stating specifically for what the same was received, and for what purpose the same was expended, and shall give an account of all improvements made, and the general condition of the property under their charge, which reports shall be transmitted by the Governor to the Legislature at the time of making the annual report, as provided in this section. It shall be the duty of the Secretary to estimate the surplus money growing out of the revenues from said wharves, over and above the requirements of the first four subdivisions of section three of this Act, and when such surplus is ascertained, the same shall be set apart by the State Treasurer as a special Fund, to be called the "San Francisco Harbor Protection Fund," to be used exclusively in the building and construction of such sea wall along the line of the water front of said city and county as shall hereafter, upon accurate survey, be found necessary for the protection and security of the harbor and water front of said city and county.

Erection of
sea wall.

SEC. 14. Upon the accumulation of the sum of twenty-five thousand dollars in said "Harbor Protection Fund," the Commissioners shall cause a survey and estimates to be made for the construction of a sea wall, and the expense of such survey and the costs of constructing said sea wall shall be paid out of the "Harbor Protection Fund." Such sea wall shall be constructed by contract, in sections of not more than two blocks in one contract, and all contracts for that purpose shall be made in accordance with the provisions of section nine of this Act.

Vacancy.

SEC. 15. In the event of the death or resignation of either of the Commissioners elected under this Act, the Governor shall fill the vacancy by appointment, and the appointee shall hold the office until the next general or municipal election, or meeting of the Legislature, as the case may be. Any person so appointed to fill a vacancy in the Board of Commissioners shall give a like bond and subscribe to a like oath as those required of Commissioners elected under this Act, before he receives a

commission from the Governor. If any one of said Commissioners, or the Secretary of the Board, shall absent himself from the State for a space of sixty days, he shall be deemed to have vacated the office held under this Act, and the Governor shall appoint his successor, who shall hold the office until the next general or municipal election, or meeting of the Legislature, as the case may be, at which time his successor shall be elected, and hold his office for the balance of the unexpired term. And such appointee shall give a like bond and subscribe to a like oath as those required of his predecessor.

Sec. 16. It shall be and is hereby made the duty of the Attorney-General of the State to give such legal advice and render such legal services as may, from time to time, be required of him by the Commissioners, in connection with their duties under this Act.

Duty of
Attorney
General.

Sec. 17. The salary of each Commissioner shall be one hundred dollars per month. The salary of the Secretary shall be two hundred dollars per month. The said salaries shall be payable monthly, out of any moneys collected under this Act.

Salary
of Com-
missioners.

Sec. 18. No person shall be eligible to any office under this Act unless he has been a resident and citizen of this State at least two years next prior to the time of his election or appointment.

Eligibility
of officers.

Sec. 19. Should any personal injury or loss of property occur in consequence of the neglect of the lessees to keep the wharves, docks, and landing places in good repair, the party receiving the personal injury or losing the property may proceed against the said lessees in any Court of competent jurisdiction; and the said lessees shall be responsible on the bonds given to the State Harbor Commissioners for the faithful performance of their contract, for all judgments obtained against them for losses or injuries sustained in consequence of such neglect.

Lessees of
wharves.

Liability of.

Sec. 20. No person or company shall, after the Commissioners elected under this Act shall have been commissioned as herein provided, collect any tolls, wharfage, and dockage, upon any portion of the water front of the City and County of San Francisco, nor shall any person or persons land or ship any goods, wares, or merchandise, or other thing, upon or from any portion of the said water front of said City and County of San Francisco, unless authorized so to do by the said Commissioners, excepting such persons or companies as may hold possession of some portion of the property described in this Act by valid leases. Any person violating or offending against the prohibition in this section contained shall be deemed guilty of a misdemeanor, and upon conviction thereof in any Court of competent jurisdiction, shall be punished by a fine not exceeding five hundred dollars, or by imprisonment in the County Jail of the City and County of San Francisco not exceeding six months, or by both such fine and imprisonment.

Authority
of Com-
missioners.

Violation of
Section 20.

Penalties.

Sec. 21. Whenever, in this Act, authority is given to dredge docks, repair wharves, or make other improvements, it shall be deemed to apply only to such wharves, docks, or other improvements as are not leased, as provided in section five of this Act.

Dredging
docks, etc.

Sec. 22. All Acts and parts of Acts in conflict with this Act are hereby repealed.

Sec. 22. This Act shall take effect from and after its passage.