

L A W S

OF THE

STATE OF NEW YORK,

PASSED AT THE

NINETY-EIGHTH SESSION

OF THE

LEGISLATURE.

BEGUN JANUARY FIFTH AND ENDED MAY TWENTY-SECOND, 1875,
IN THE CITY OF ALBANY.



ALBANY :
HUGH J. HASTINGS, PUBLISHER.
1875.

for which he is elected or appointed; and if he shall accept an election or appointment to any other office in such town, he shall immediately cease to be a town auditor, and the vacancy in his office shall be supplied in the manner hereinafter required.

Office,
how va-
cated.

§ 5. Each of such town auditors shall be entitled to and shall receive for his services three dollars per day for each day not exceeding three, actually employed by him in the performance of the duties of his office. In case of any vacancy occurring in the board of town auditors, by the death or removal from the town of any or either of such auditors, or by his neglect or refusal to accept such office, the supervisor of the town in which such vacancy occurs may appoint some suitable and competent person to fill such vacancy until the next annual town meeting thereafter.

Compen-
sation.

Vacancy,
how filled.

§ 6. This act shall take effect immediately.

Chap. 181.

AN ACT to authorize the villages of the State of New York to furnish pure and wholesome water to the inhabitants thereof.

Passed April 29, 1875; three-fifths being present.

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

SECTION 1. The authorities of any incorporated village in this State may hereafter organize into a board of water commissioners in the manner by this act provided.

Board of
water
commis-
sioners.

§ 2. For the purposes of this act, said authorities are hereby defined to be in villages the board of trustees thereof. The terms of office of said commissioners shall respectively continue for the terms for which said authorities shall be, or shall have been, respectively elected.

Village
authori-
ties de-
fined.

Terms of
office.

§ 3. Whenever a majority of said authorities, in a village, shall deem it advisable to organize as a board of water commissioners, they shall certify the same in writing to the clerk of the village, who shall thereupon, and within five days thereafter, notify said authorities, in writing, to attend a meeting to be held within five days thereafter, for the purpose of organizing as a board of water commissioners. At the time and place named in said notice said authorities, or a majority of them, shall meet and organize by electing one of their number president of the board. They shall also elect from their number a secretary and treasurer. Said board may make all necessary rules and regulations for its government and the transaction of its business. The treasurer shall give a bond, with sufficient sureties, for the faithful performance of the duties of his office, in such amount as may be determined by the board of commissioners, to be appointed by said commissioners.

Board of
commis-
sioners,
organiza-
tion of.

President,
secretary
and treas-
urer.

Bond of
treasurer.

§ 4. It shall be the duty of the commissioners to examine and consider all matters relating to supplying the village with pure and wholesome water, and for that purpose they shall have power to employ engineers, surveyors and such other persons as shall be necessary for that purpose; and they shall adopt such plans as in their opinion may be most feasible for procuring such supply of water, and which shall embrace proper distribution pipes and supplies for all streets and places where, in their opinion, it shall be of interest to the village, and shall

Commis-
sioners,
powers
and duties
of.

ascertain the probable amount of money necessary to carry the same into effect; and for that purpose they shall have power to contract for and purchase, and take by deed or other instrument under seal, in the name of said village, all lands, tenements, hereditaments, rights or privileges whatever, and situate at any place within the county in which said village may be situated, which may be required for the purpose, and to contract for the execution of the work, or any part thereof, or the supply of any necessary material; and the commissioners, and their agents and employees, are authorized to enter upon any land or water for the purpose of making surveys, and to agree with the owner of the property, real or personal, which may be required for the purposes of this act, as to the amount of compensation to be paid such owner, subject to a revision by the court upon application by any three taxable inhabitants of the village.

Land, survey and map of.

§ 5. Before entering, taking or using any land for the purpose of this act, the said water commissioners shall cause a survey and map to be made of the lands intended to be taken or entered upon for any of said purposes, by and on which the land of each owner or occupant shall be designated, which map shall be signed by the president of said water commissioners and their secretary, and be filed in the office of the county clerk of the county in which the said lands are situated; said water commissioners, by any of their officers, agents or servants, may enter upon any lands for the purpose of making such survey or map.

Where filed. Entry upon lands.

Title to lands, how acquired.

§ 6. In all cases where the said water commissioners shall be unable to agree with the persons owning or having an interest in any lands, tenements or hereditaments required for the purposes of this act, the Supreme Court, at any special term thereof held in the judicial district in which said lands are situated, shall, on application of said water commissioners, after ten days' written notice personally served on such persons, or where such notice cannot be personally served within the State, or such persons are infants, or otherwise incapacitated from receiving personal notice, then by service in such manner as the said court shall direct, appoint three disinterested citizens of the county in which the said lands are situated, who shall be freeholders, as commissioners of assessments, to determine the damage sustained by each of such persons by reason of the taking or use of his or her lands, tenements or hereditaments for the purpose of this act. Such commissioners of assessment shall take the oath required by the Constitution, and shall personally examine each parcel of land or other property proposed to be taken or used, and shall estimate and report to said court, at any term thereof held in the said judicial district, the several sums which will be a just compensation to such owners or persons interested, respectively, for the appropriation to the purposes of this act of any property, rights or privileges that may be so required, or for the title or use of any such property. Such commissioners of assessment may examine witnesses upon hearings before them, and all evidence so taken shall accompany their report. Ten days' notice, in writing, of the time and place of the presentation of said report shall be given to the parties interested. On the presentation of said report the said court may confirm or amend the same, or appoint new commissioners, who shall proceed in like manner with the first commissioners, and whose report shall be final, and shall be confirmed by said court. Said commissioners of assessment shall receive, from the said water commissioners, the sum of three dollars per day each for each day employed by them in performance of their duties as above stated, together with the amount which said commissioners of assessment shall certify as correct in their said

Commissioners of assessments to be appointed.

To examine lands, and report to the court.

May examine witnesses. Notice.

New commissioners, their report final. Compensation of commissioners.

report, for incidental expenses connected with their work, including the preparation of their report.

§ 7. Whenever any report of commissioners of assessment shall have been confirmed by said Supreme Court, the said water commissioners may deposit, as said court may direct, or pay to said owner or to such person or persons as the court may direct, the sum mentioned in the said report in full compensation for the property so required; and thereupon the said village shall become seized in fee of the property so required, and said commissioners and said village shall be discharged from all claim by reason of any such appropriation or use.

Award, payment of.

Title of village, when perfected.

§ 8. The said commissioners shall have power, and it shall be their duty, to borrow, from time to time, upon the credit of the village, a sum not exceeding ten per cent. of the assessed value of the real and personal estate of the valuation of the village, as shall appear by the then last assessment roll, upon such term of credit not exceeding thirty years, and at rate of interest not exceeding seven per cent per annum, as shall seem to them for the best interests of said village; and to secure the payment of said loan said commissioners are authorized to make, execute and deliver bonds, certificates or other obligations, which shall be signed by them, or any three of them, as said commissioners; which said bonds, certificates or other obligations shall be made payable in such respective amounts, and at such respective times, as such commissioners shall deem best, and said bonds and the interest thereon shall be a valid liability against said village, and the credit of said village is pledged for the payment of the same; and the said money so borrowed shall be appropriated by said commissioners to supplying said village with water, agreeable with the provisions of this act. But no such bonds, certificates or other obligations shall be disposed of by such commissioners at less than the par value thereof.

Power to borrow money.

Bonds, authority to issue.

Not to be sold below par.

§ 9. No bonds, certificates or other obligations of indebtedness shall be issued by any board of commissioners authorized by this act until such commissioners shall have filed, with the clerk of the county in which the village shall be situated, their joint and several bond, in the sum of twenty thousand dollars, with sureties, to be justified before and approved by the county judge of said county, or a justice of the Supreme Court, and conditioned for the faithful performance of the duties of such commissioners; and when the term of service of any such commissioner shall expire he shall hold his office as such commissioner until new bonds shall be given by the board of which his successor is to be a member, which bond shall be in similar form to those first issued, for a like amount, and to be justified, approved and filed in a similar manner.

Bonds of commissioners.

New bonds, when to be given.

§ 10. Said commissioners shall have power to make all necessary contracts for labor and materials in the construction of the work, and all pertaining thereto, which said contract shall be in writing, signed by a majority of the commissioners, and of which there shall be three originals executed by the parties, which shall be numbered by the same number, one of which shall be given to the contractor, one to the village clerk, which shall be filed by said clerk with the records of said village, and one retained by the commissioners; and three weeks' public notice shall be given in one or more newspapers published in said village, or if no paper is published in said village then in one or more of the nearest newspapers published in the county, as the commissioners shall direct, of the times and places at which sealed proposals will be received for entering into contracts, and the commissioners shall have full discretion as to the acceptance or rejection of all sealed proposals; and in case any

Contracts for labor and materials to be in writing.

Sealed proposals, notice of receiving.

materials and labor shall then remain uncontracted for, the like notice for sealed proposals and like proceedings may be had as above provided; and so, from time to time, as said commissioners may direct, for work or materials; and every person who shall enter into any contract for the supply of materials or the performance of any work shall give satisfactory security to such commissioners for the faithful performance of his contract according to its terms.

Security.

Commissioner not to be interested in contracts.

§ 11. No commissioner shall be directly or indirectly interested in any contract relating to the work or materials therefor, nor in any work or materials for the work, nor for any portion of the water-works, nor shall he receive any compensation for his services, nor for anything pertaining thereto.

Ground under street or highway, right to use.

§ 12. The said commissioners, and all acting under their authority, shall have the right to use the ground or soil under any street, highway or roads within the county within which said village is situated, for the purpose of introducing water into and through any and all portions of said village, on condition that they shall cause the surface of such street, highway or road to be relaid and restored to its usual state, and all damages done thereto to be repaired, and such right shall be continuous for the purpose of repairing and relaying water pipes, upon like conditions.

Rents, scale of, to be established.

§ 13. The said commissioners shall establish a scale of rents to be charged and paid to the commissioners from time to time, either in advance or at such time and times, as the commissioners shall prescribe, for the supply of water, to be called "water rents," and appropriated to different classes of buildings in said village, in reference to their dimensions, values, exposure to fires, ordinary or extraordinary uses for dwellings, stores, shops, hotels, factories, livery stables, barns and all other buildings, establishments and trades, yards, number of families or occupants, or consumption of water as near as may be practicable, and from time to time, either modify, amend, increase or diminish such rents; and said commissioners and their respective employees shall be authorized at all times to enter into any building or place where water is used from supply pipes, to examine as to the water, quantity of water used and the manner of using it.

Right of entry into buildings, etc.

Connecting pipes to be at expense of owners or occupants.

§ 14. The connecting or supplying pipes leading from buildings or yards to the distribution pipes shall be inserted and kept in repair at the expense of the owner or occupant of the building or yard, and shall not be inserted or connected with the main pipe until a permit therefor shall be obtained from said commissioners, or other persons having charge thereof, and all such connecting or supply pipes shall be constructed and connected in the manner directed by said commissioners or persons in charge.

Receipts for water rents, application of.

§ 15. The entire annual receipts for water rents after deducting therefrom such sums as may be necessary to defray the expenses of repairs of said water-works, and of extending the same, and other necessary expenses, shall be applied toward the payment of the interest on the loan hereinbefore authorized, and also toward the creation of a sinking fund for the payment of the principal of said loan, as it shall from time to time become due and payable, which sinking fund shall be managed by said commissioners. No investment shall be made in behalf of such sinking fund, except in the bonds of the United States, of the State of New York, or of any city of this State, and in the bonds, certificates or other obligations authorized to be issued by such village under this act, which last named bonds, certificates and obligations, the commissioners may purchase at any time when they shall have funds applicable, at

Sinking fund. How invested.

prices not exceeding their par value, and when so purchased said bonds, certificates and obligations shall not be reissued but shall be immediately canceled.

§ 16. In case the entire annual receipts for water rents, after deducting as in the preceding section provided, shall, in any year, not be sufficient to pay the interest for that year on said loans, or in case in any year when any of the principal of the loan secured by said bonds falls due, the amount of said receipts for water rents, after making said deduction, together with the sum in the said sinking fund, shall not be sufficient to pay said principal, and also the said interest falling due that year, it shall be the duty of the board of trustees of said village, and they are hereby directed to cause such deficiency to be assessed, levied and collected from the taxable property of said village at the same time and in the same manner as other expenses of said village are assessed, levied and collected, and the same shall be applied to the payment of such interest or principal, or both.

Interest, tax for payment of.

§ 17. The said commissioners shall annually, on the first day of May in each year, and at all such other times as required by the board of supervisors of the county in which said village is situated, deliver to said board of supervisors a detailed statement of all their accounts, a general statement of all their work, and condition of their affairs and state of finances, including a full detail of the amount expended in the progress of the work, and a particular statement of any deficiency as to the water rents, in meeting the principal and interest of the sum borrowed, as in the previous section hereinbefore referred to, and all books and papers of every kind and description kept by said commissioners, upon which are entries of their transactions as such, shall, at all times, be subject to the inspection by said board of supervisors, and by every elector of said village.

Detailed statement of accounts, commissioners to make annually.

Books, papers, etc., to be open to inspection.

§ 18. All judgments against said commissioners in their name of office, and judgments against them, where the transaction upon which the action was brought shall have been in the performance of their duties as commissioners, shall not be enforced against the individual property of either of the said commissioners.

Judgments against commissioners, not to be enforced against them personally.

§ 19. The said commissioners shall have power, from time to time, to make and establish such by-laws, rules and regulations, not inconsistent with the laws of this State or of the United States, as they shall judge proper for the election of their officers, and as to the duties of these officers and employees, and as to the means of enforcing said duties, and for the regulation of times and manner of holding meetings of commissioners, and for enforcing the collection of water rents and manner of using water, and generally for transacting, managing and directing the affairs of the commissioners, and may provide regulations as to the use of water, and enforce the observance thereof by cutting off the use and supply of water.

By-laws, commissioners may make.

§ 20. A violation of any of the provisions of this act by any of such commissioners shall be deemed a misdemeanor.

Misdemeanor.

§ 21. At any time after the passage of this act, a meeting of the electors of any village may be called by its board of trustees, upon notice published for two weeks in one or more weekly newspapers published in said village, or if no newspaper be published in such village, then in the nearest newspaper published in the county in which such village may be situated, and at which the question will be submitted, whether the taxes in this act authorized for the purposes aforesaid shall be levied and collected from the village, as in this act provided; and no commissioners shall proceed with any duties under this

Meeting of electors, notice of, and question to be submitted.

act, unless the majority of voters and of the tax-payers whose names appear upon the last assessment roll of the village voting at such meeting shall vote in favor of such taxes. Said vote shall be by ballot, and there shall be written or printed on the ballots of those in favor of taxes, "For the water taxes," and on the ballots of those opposed, "Against the water taxes." The said board of trustees, or any of them, shall preside and certify the result of said meeting, and the village clerk shall, within five days thereafter, serve each of said commissioners with a certified copy of such certificate.

Ballot,
form of.

Existing
corpora-
tions for
supplying
water;
rights and
properties
of, how
the same
may be
taken for
the pur-
poses of
this act.

§ 22. Whenever any corporation shall have been organized under the laws of this State for the purpose of supplying the inhabitants of any village with water, and it shall become or be deemed necessary by the board of water commissioners herein authorized to be created, that the rights, privileges, grants and properties of such corporation shall be required for any of the purposes of this act, the commissioners herein authorized to be created shall have the power, and it shall be their duty, to make, or cause to be made, a thorough examination of the works, rights, privileges and properties owned or held by such corporations, or any of them, and if such commissioners shall determine that said works, rights, privileges and properties are necessary for the purposes of this act, they shall have the right to make application to the Supreme Court, at a special term thereof, held in the judicial district in which the works of such corporation are situated, for the appointment of three commissioners of appraisal, who shall be disinterested freeholders and residents of the county. Notice of such determination and application must be served upon the president and secretary of such corporation at least ten days prior to the presentation of any such application.

Commis-
sioners of
appraise-
ment,
how ap-
pointed.

Duties of.

The court shall thereupon appoint the said commissioners of appraisal, whose duty it shall be to examine and appraise the value of the works, rights, privileges and properties required to be taken by the board of water commissioners, and such commissioners of appraisal shall make a report in writing of such examination and appraisal to said court at a special term thereof. Said report shall be verified by the oaths of said commissioners; they shall file a copy thereof with the board of water commissioners, and they shall cause a copy thereof to be served upon the president or secretary of the company, whose rights and properties are the subject of such appraisal, with a notice of the time and place of the presentation of said report for confirmation.

Notice of
confirma-
tion.
Objection
to confir-
mation.

Such notice shall be served at least ten days prior to the time when said report shall be presented for confirmation. If objection be made to the confirmation of said report, by said company, or by a water commissioner, or if objection be made thereto by any three tax-payers of said village, the court may order a re-examination of said works and properties, and a re-appraisal thereof; and the court may make an order that testimony be taken concerning the value of said works and properties. Said re-examination and re-appraisal shall be made, and said testimony shall be taken within twenty days from the time when said order shall be made, unless such time shall be extended by the court; and upon the presentation of said second report, the court shall proceed to consider the same, and shall thereupon confirm or reject the same. The compensation of such commissioners shall be three dollars per day for each day actually engaged, together with their actual and necessary expenses as adjusted by the court. The awards made to the corporation whose rights and properties are so taken, shall be paid by the water commissioners herein authorized to be created, from the proceeds of bonds, certificates or other obligations, which are

Re-exam-
ination
and re-ap-
praise-
ment.

Compensa-
tion of
commis-
sioners.
Awards to
corporation,
how
paid.

hereby authorized to be issued by such commissioners for such purpose, and thereupon all the rights, privileges, works, franchises and properties owned by said corporation, or held by it for its purposes, shall be vested in said village.

§ 23. In the construction of any storage reservoir now being erected or hereafter to be erected within the limits of this State, for the purpose of supplying water for the use of any city, town or village, all vegetable or other matter subject to decay shall be removed from the banks thereof between its highest and lowest possible flow lines, or be covered by gravel or stone to prevent any such decay and consequent injury to public health.

Reservoirs.

§ 24. The provisions of this act shall not apply to any village wherein a board of water commissioners has been created according to law.

Provisions of this act not applicable to certain villages.

Chap. 182.

AN ACT to authorize the trustees of the village of Cooperstown to erect a building for the use of the fire department, trustees and other officers of said village; to purchase real estate on which to erect such building, and to borrow money for the purpose of purchasing such real estate and erecting such building.

Passed April 29, 1875; three-fifths being present.

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

SECTION 1. The trustees of the village of Cooperstown are hereby authorized to borrow on the faith and credit of said village the sum of fifteen thousand dollars, or such portion thereof as they shall deem necessary, to purchase necessary real estate on which to erect a building for the use of the fire department, trustees, and other officers of said village; and to erect and completely finish such building. For the money so borrowed, the said trustees are hereby authorized to issue bonds or certificates of indebtedness in the name and under the seal of said corporation, and signed by the president and treasurer thereof in sums of not less than one hundred dollars each, with interest at seven per cent. per annum, payable annually, which shall not be negotiated at less than par.

Trustees may borrow money, and erect building for fire department.

Bonds.

§ 2. Said bonds or certificates shall be classified and issued so that the whole thereof shall be redeemable in fifteen years, as follows: One thousand dollars in each and every year.

Bonds, when redeemable.

§ 3. It shall be lawful for the trustees of the village of Cooperstown, and it shall be their duty to make provision by tax in each year for the payment of the interest and principal falling due on said bonds or certificates during said year, and such interest and principal shall be assessed, levied and raised in the same manner as any other public or general tax of said village, and in addition to and in conjunction with the general taxes of said village as now authorized by law.

Tax for payment of bonds.

§ 4. No real estate shall be purchased or building erected, or bonds or certificates issued, and no tax shall be levied or moneys raised, assessed or collected for any of the purposes mentioned in this act, without the

Consent of freeholders.