

L A W S  
OF THE  
STATE OF NEW YORK,  
PASSED AT THE  
NINETY-FIFTH SESSION  
OF THE  
LEGISLATURE,

BEGUN JANUARY SECOND, AND ENDED MAY FOURTEENTH, 1872,  
IN THE CITY OF ALBANY.

VOL. II.



ALBANY:  
V. W. M. BROWN, PUBLISHER.  
1872.

## Chap. 607.

AN ACT to amend an act entitled "An act to amend and consolidate the several acts relative to the village of Ballston Spa," passed April twelve, eighteen hundred and fifty-five, as amended by "An act to amend an act entitled An act to amend and consolidate the several acts relative to the village of Ballston Spa," passed May ninth, eighteen hundred and sixty-eight, and for the purpose of securing an additional supply of water for the use of said village.

Passed May 9, 1872; three-fifths being present.

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

Trustees  
to issue  
bonds for  
purpose of  
supplying  
village  
with  
water.

SECTION 1. The trustees of the village of Ballston Spa are hereby authorized and directed to issue the bonds of said village, signed by the president and countersigned by the clerk of said village, to an amount not exceeding ten thousand dollars, which shall be on interest, not exceeding seven per cent. per annum, and payable at some time within twelve years from the date thereof; such interest to be payable annually; the avails of said bonds to be used for the purpose of furnishing an additional supply of pure and wholesome water to the inhabitants of said village, and for the purpose of extinguishing fires therein. The said bonds, or so many of them as shall be required for the purpose hereinbefore specified, shall be delivered by the clerk of said village to the commissioners of construction hereinafter named and appointed, after they shall become qualified to act as such, and take their receipt therefor, in a book prepared for that purpose by said clerk, at the expense of said village.

Bonds  
to be de-  
livered to  
commis-  
sioners of  
construc-  
tion.

Commis-  
sioners to  
negotiate  
bonds at  
not less  
than par.

§ 2. It shall be the duty of said commissioners of construction to negotiate and sell the said bonds, or as many of them as shall be required, and convert the same into money as fast as necessary, not less than par; and the money when obtained shall be deposited in one of

the national banks in said village and drawn out only on the order of said commissioners of construction, countersigned by the trustees of said village, or a majority of them, and used solely for the object and purposes hereinbefore specified.

§ 3. Jesse S. L'Amoreaux, Henry A. Mann, Nelson R. Vandenburg, Lindley M. Crane and Charles J. Newton, of Ballston Spa, New York, are hereby appointed commissioners of construction under this act, and shall hold their offices two years and until others are appointed in their places. Any vacancies that shall occur shall be filled by the trustees of said village. It shall be the duty of the said commissioners, or a majority of them, to make examinations and determine on the best mode for obtaining an additional supply of water for the use of said village. They shall, in like manner, be empowered to cause necessary surveys, estimates and levels to be taken for such purpose, and to enter upon and take possession on behalf of said village, of any lands, springs, streams, brooks, ponds, lakes and sources of supply of water for that purpose, first paying the owners all reasonable damages therefor. They shall, as aforesaid, have power to enter into contract or contracts for aqueducts, water-pipes, pumps, machinery, water powers, hydrants, and for the erection of dams, buildings and other materials, and for making reservoirs of water, and for the construction, putting in order and completing the works, and for the employment of all necessary labor to dig trenches and lay pipe, and to superintend the construction of said work. Said commissioners may, as aforesaid, enter upon any lands, streets, lanes, roads or public squares through which they may deem it proper to convey the water from said sources of supply, and lay and construct any pipes, conduits, aqueducts or other works, for the purposes mentioned, leaving the said lands, streets, highways, lanes and public squares in the same condition, as nearly as may be, as they were before said entry, and may do everything necessary and proper to carry out the intent and purposes of this act.

Names of commissioners.

Vacancies how filled.  
Duty of commissioners.

To make surveys, etc.

To contract for water-pipes, etc.

May enter upon lands, etc.

§ 4. Before taking or using any lands for the purposes of this act, the commissioners shall cause a survey

Before taking lands sur.

vey and  
map  
thereof to  
be made.

and map thereof to be made, by which the land of each owner or occupant intended to be taken or used shall be designated, and such map so made shall be signed by the surveyor or engineer making the same, and shall be filed in the office of the clerk of said village. The commissioners or any person in their employ may enter upon any lands for the purpose of making an examination and of making said survey and map, doing no unnecessary damage.

Proceed-  
ings to  
acquire  
title to  
necessary  
real  
estate.

§ 5. In case the said commissioners cannot agree with the said owners or occupants of any land, water or water powers to be taken, used or damaged as aforesaid, for the purpose thereof, or on the amount of damages to be paid, the commissioners may apply to the Supreme Court, at any general or special term thereof held in the fourth judicial district, for the appointment of three referees, by whom the compensation to be paid for damages suffered or to be suffered by any person or persons by reason of taking said lands and water and constructing any of said works shall be ascertained and determined. And in case of the death, resignation, refusal or inability to act of the said referees, or either of them, said court may appoint others in their places. The commissioners shall cause a notice of at least twenty days, of the time and place of meeting of said referees, to be served upon such owners of said land, water and water power as can be found in this State, which notice may be served personally, or, in their absence from their dwellings or places of business, by leaving the same thereat with some person of suitable age. And in case of any disability of such owner to act thereupon, serving notice in like manner upon his guardian or person appointed to act for him, as herein-after directed. And in case any of said owners cannot be found in this State, such notice may be served by publishing the same once in each week for six successive weeks, in two newspapers published in said village. And if any owners shall be married women, insane, idiots or infants, the said court shall appoint some suitable person to attend in their behalf before said referees, and take care of their interests in the premises. The referees may issue subpoenas to compel the attend-

Notice of  
meeting of  
referees.

How  
served.

Guardians  
for in-  
fants, etc.

ance of witnesses to testify before them, and they or any of them may administer the usual oath to such witnesses. They shall make a written report of all their proceedings, containing the testimony taken by them and showing the sum awarded to each owner or other person, and return the same to said court to be filed of record in the secretary or county clerk's office. The commissioners shall pay to each of the referees the sum of three dollars for each day necessarily spent in discharging the duties for which they were appointed.

Referees to report in writing.

§ 6. Either party may appeal from the award or determination of the referees to said Supreme Court; provided, the party appealing shall, within ten days after such award or determination shall be made, give written notice of the appeal to the adverse party; and the said court shall, upon the report of the referees, proceed to hear the said appeal, and may confirm the report of the referees, or set the same aside and order a new appraisement by the same or other referees, to be appointed by the said court; and the said court may make such orders in reference to the proceedings of the referees, and of notices to be given to parties, as may not be inconsistent with this act, and as the nature of the case and the interests of the parties may require.

Appeals.

§ 7. Upon the payment or legal tender of the sum finally awarded, as aforesaid, the said commissioners shall be entitled to enter upon, take and use all the lands, waters and water powers for the purposes contemplated by this act, for which compensation shall be paid or tendered as aforesaid. And the same may be held and used, for the purposes specified by this act, by said trustees, as herein provided, forever. Payments of the compensation awarded to any person may be made to such person, or by depositing such sum to the credit of said person, or his representative, in one of the national banks at Ballston Spa.

When commissioners may enter upon, take and use lands.

§ 8. All the lands, water powers, real estate and rights which said commissioners shall in any way legally enter upon or take by virtue of this act, shall be owned and held by said village forever.

Title to vest in village.

§ 9. The said trustees, after the said water shall be obtained, and said works shall have been completed

Water rents.

and put into operation. are hereby empowered to establish rents to be paid annually, in advance, for the supply of water to the inhabitants of said village, occupying lots with buildings thereon, in said village, and to be called water rents, which shall be charged upon and apportioned, as near as may be, to the different classes of buildings, with reference to the character, dimensions, use, value, income, occupancy and location thereof, as well as the quantity of the water used, situated on streets along which pipes are laid or accessible thereto. They are also authorized to levy a tax against all unoccupied, vacant and non-resident lots, and lots without buildings thereon in said village, situated along streets through which the main pipes are laid, or are accessible thereto, which tax shall be assessed and levied on said lots, according to the value thereof, as appears by the last assessment roll. All the foregoing taxes shall be a lien and charge upon the real estate supplied with water, or benefited thereby, and be collected and enforced in case of non-payment in the manner provided by law. And the said trustees shall have power, from time to time, to alter, amend, increase, correct, or diminish such rates, provided, however, that such rates shall be sufficiently high to pay the interest on the bonds issued under this and any former, if any, act, and those remaining unpaid; and to pay the necessary annual expenses of said water-works, including the tax now authorized by law for such purpose, if any. The balance shall be vested as a sinking fund to pay the water debts created by said bonds when they become due, or as they can be redeemed or paid.

Tax upon vacant and unoccupied lands, etc.

Taxes to be a lien on lands.

Sinking fund.

Commissioners to take oath and give bonds.

§ 10. Each of said commissioners of construction, before entering upon the discharge of their duties, shall take the usual oath of office, and shall give a bond to the trustees of said village with two or more sureties, to be approved by said trustees, in double the amount of money that may come to their hands, conditioned for the faithful performance of their duties, and to honestly and justly appropriate the moneys which shall come to their hands under the provisions of this act.

§ 11. The said commissioners of construction may designate one of their number to superintend and manage one or more branch or branches of the said work, under their general supervision, and when so employed such commissioner shall be paid at the rate of three dollars per day, to be audited and allowed by the trustees as other village expenses; and neither the said commissioners or either of them, except when so employed, or said trustees, shall be entitled to any compensation for the services under this act, except the said trustees and commissioners may be reimbursed for such necessary and incidental expenses as they may incur in the discharge of their duties under the provisions of this act.

Commissioners to designate one of their number to superintend work.

Compensation of superintendent.

§ 12. The connecting or supply pipes leading from the dwellings or other places supplied with water, other than fire hydrants to the distributing pipes, shall be inserted and kept in repair at the expense of the owners or occupants of the buildings or places supplied with water as aforesaid, and shall not be connected with such pipe until permission therefor shall be obtained from the trustees of said village or other person having charge thereof, and all such connecting pipes and fixtures shall be constructed under and according to the direction of said trustees, subject, also, to be cut off, in the discretion of said trustees, for non-payment of tax or violation of the by-laws or regulations governing the water department.

Supply pipes to be inserted and kept in repair by owners or occupants of buildings.

§ 13. In case the entire annual receipts for water rates, after deducting therefrom such sum or sums as may be necessary to defray the ordinary expenses and repairs of such water-works, and of extending the same, shall not be sufficient in any one or more years to pay the interest on said bonds, and also the annual appropriation for the sinking fund as above provided, it shall be and is hereby made the duty of the trustees of said village, and they are hereby authorized and directed, to cause to be levied and collected from and against all taxable property in said village, at the same time and in the same manner as other contingent expenses of said village are assessed, levied and collected, such sum or sums of money as may be necessary to pay any deficiency thereof.

Tax for purpose of supplying deficiencies.

Commissioners to keep books, etc.

To render full account to trustees.

Commissioners not to be interested in contracts, etc.

§ 14. The said commissioners of construction shall keep regular books of their services and all their acts and doings, together with all contracts, agreements and disbursements made or entered into, and which books shall at all reasonable times be open to inspection, and shall finally be deposited with the clerk of said village. They shall render a full account of their transactions to the trustees when called upon, to the end that a full and minute history of the securing said additional supply of water, the construction and completion of said works, together with the cost thereof, and the condition of its finances, shall be written out and duly authenticated and preserved for future reference.

§ 15. It shall be unlawful for said commissioners, or any one or either of them, directly or indirectly, to be interested in any contract, agreement, purchase, sale or employment to be made, negotiated or entered into by or on behalf of the said commissioners, or any one employed by or under them, for or on account of any of the objects or purposes of this act.

§ 16. All laws inconsistent with this act are hereby repealed.

§ 17. This act shall take effect immediately.

## Chap. 608

AN ACT for the preservation of fish in the waters of Steele's creek and McGowan's creek in the county of Herkimer.

Passed May 9, 1872; three-fifths being present.

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

No fish to be caught in Steele's and McGowan's creek in two years.

Proviso.

SECTION 1. No person shall, at any time between the first day of May, eighteen hundred and seventy-two, and the first day of May, eighteen hundred and seventy-four, by hooks, nets, or other devices, catch any trout or other fish in the waters of Steele's creek or McGowan's creek in the county of Herkimer, or in any of the tributaries of said streams, provided that this act shall not prevent the owners of lands on McGowan's creek from fishing upon their own premises.