

L A W S
OF THE
STATE OF NEW YORK,

PASSED AT THE
NINETY-SIXTH SESSION

OF THE
LEGISLATURE.

BEGUN JANUARY SEVENTH AND ENDED MAY THIRTIETH, 1873,
IN THE CITY OF ALBANY.



ALBANY:
WEED, PARSONS AND COMPANY, PRINTERS.
1873.

CHAP. 608.

AN ACT for the relief of William P. McCormick.

PASSED May 22, 1873; three-fifths being present.

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

SECTION 1. The comptroller of the city of New York is hereby authorized and directed to pay from the treasury of the city of New York, to William P. McCormick, of said city, the sum of seven thousand three hundred and fifty dollars, or so much thereof as the comptroller of the city of New York shall be satisfied is a just claim against the said city for work, labor and services performed, and materials furnished, by the said McCormick, in and about the caulking and repairing of the floors of Washington, Essex, Fulton and Centro markets in the city of New York, in the year eighteen hundred and seventy; and the aforesaid sum shall be and hereby is appropriated for the purpose of making such payment, and which amount shall be paid by the comptroller out of the funds authorized to be raised pursuant to the provisions of section two, chapter nine of the laws of eighteen hundred and seventy-two.

Comptroller to pay claim of William P. McCormick.

§ 2. This act shall take effect immediately.

CHAP. 609.

AN ACT to provide for supplying the village of College Point, Queens county, with pure and wholesome water.

PASSED May 23, 1873; three-fifths being present.

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

SECTION 1. For the purpose of supplying the village of College Point, Queens county, with pure and wholesome water, the trustees of said village shall examine and consider all matters relative to such supply, and shall have power to employ engineers, surveyors and such other persons as may be necessary for that purpose, and shall adopt such plans as in their opinion may be most sensible for procuring such supply of water, and which shall embrace proper distribution pipes, hydrants and supplies for all streets and places which, in their opinion, shall be for the interest of said village, and shall ascertain the probable amount of money necessary to carry the same into effect. For such purpose said trustees may purchase, take and hold any real estate in the town of Flushing, and, by their agents or other persons employed, may enter upon the lands of any person or persons which may be necessary for said purpose, and take the water from any ponds, springs, rivers, streams or lakes in said town, and may divert and convey the same to the said village of College Point, and may construct, lay and repair any buildings, reservoirs, aqueducts, pipes, conduits or other works, or machinery necessary or proper for said purpose, upon any lands so entered upon, purchased, taken or held, and the said trustees, or any person or persons acting under their authority, may, as aforesaid, enter upon any lands, streets, avenues, highways, roads, lanes and squares in said town of Flushing, or in any village in said town of

Trustees to employ engineers, surveyors, etc.

May purchase and hold real estate, etc.

Flushing, and use the ground or soil of or under the said lands, streets, avenues, highways, roads, lanes and squares, for the purpose of introducing water into any and all parts of said village of Collego Point, on condition that they shall cause the surface of said lands, streets, avenues, highways, roads, lanes and squares to be relaid and restored to its usual state as nearly as may be, and all damage thereto to be repaired; and such right shall be continued on like conditions for the purpose of repairing or relaying water pipes.

Survey
and map

§ 2. Before entering, taking or using any land for the purpose of this act, the said trustees 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 trustees and their clerk, and be filed in the office of the clerk of Queens county. Said trustees, by any of their officers, agents or servants, may enter upon any lands for the purpose of making such survey or map, they doing no unnecessary damage.

Proceed-
ing to
acquire
real estate.

§ 3. In all cases where the said trustees 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 said trustee, after ten days' notice to all persons whose interests are to be affected by the proceedings, shall make application to the supreme court, at any special term held in the second judicial district for the appointment of commissioners to ascertain and appraise the compensation to be made to the owners or persons interested in the lands proposed to be taken. If the person on whom such service is to be made resides in this State, and is not an infant, idiot or person of unsound mind, service of such notice must be made on him, or his agent or attorney authorized to contract for the sale of the real estate proposed to be taken, personally, or by leaving the same at the usual place of residence of the person on whom service must be made as aforesaid, with some person of suitable age. If the person on whom such service is to be made resides out of the State, and has an agent residing in this State authorized to contract for the sale of the real estate proposed to be taken, such service may be made on such agent, or on such person personally out of the State; or it may be made by publishing the notice, stating briefly the object of the application, and giving a description of the land to be taken, in at least two newspapers printed in the county in which the land to be taken is situated, once in each week for two weeks next previous to the presentation of the petition. And if the residence of such person residing out of this State, but in any of the United States, or any of the British colonies in North America, is known, or can by reasonable diligence be ascertained, the said trustees must, in addition to such publication as aforesaid, deposit a copy of the notice in the post-office, properly folded and directed to such person at the post-office nearest his place of residence, at least ten days before presenting such petition to the court, and pay the postage chargeable thereon in the United States. If any person on whom such service is to be made is under the age of twenty-one years, and resides in this State, such service shall be made as aforesaid on his general guardian, or if he has no such guardian, then on such infant personally if he is over the age of fourteen years, and if under that age, then on the person who has the care of, or with whom such infant resides. If the person on whom such service is to be made is an idiot, or of unsound mind, and resides in this State, such service may be made on the committee of his person or estate, or if he has no such committee,

Notice,
how to be
served.

then on the person who has the care and charge of such idiot or person of unsound mind. If the person on whom such service is to be made is unknown, or his residence is unknown, and cannot by reasonable diligence be ascertained, then such service may be made under the direction of the court, by publishing a notice stating the true time and place the trustees will make such application, with the object thereof, with a description of the lands to be affected by the proceedings, in at least two papers printed in the county where the land is situated, once in each week for two weeks previous to the said application. In case any party affected by these proceedings is an infant, idiot or of unsound mind, and has no general guardian or committee, the court shall appoint a special guardian or committee to attend to the interests of such person in the proceedings, but if a general guardian or committee has been appointed for such person in this State, it shall be the duty of such general guardian or committee to attend to the interests of such infant, idiot or person of unsound mind, and the court may require such security to be given by such general or special guardian or committee as it may deem necessary to protect the rights of such infant, idiot, or person of unsound mind; and all notices required to be served in the progress of the proceedings may be served on such general or special guardian or committee. In all cases not herein otherwise provided for, service of orders, notices, and other papers in the special proceedings authorized by this act may be made as the supreme court shall direct. Upon proof of the service of the said notice, as above provided, the supreme court at any special term thereof, held in the second judicial district, shall appoint three disinterested freeholders residing in the county of Queens as commissioners 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 shall take the oath prescribed by the twelfth article of the constitution, and shall personally examine the parcels of land or other property to be taken or used, and shall estimate and report to the said supreme court the amount of compensation which ought justly to be made to the owners or persons interested in the lands so proposed to be taken or used for the purposes of this act. Such commissioners may examine witnesses upon hearings before them, and all evidence so taken shall accompany their said report.

§ 4. On such report being made by said commissioners, the said trustees shall give notice to the parties, or their attorneys, to be affected by the proceedings, according to the rules and practice of said court, at a special term thereof, for the confirmation of such report, and the court shall thereupon confirm such report, and shall make an order, containing a recital of the substance of the proceedings in the matter of the appraisal and a description of the real estate appraised, for which compensation is to be made; and shall also direct to whom the money is to be paid or in what bank, and in what manner it shall be deposited by said trustees. A certified copy of the order, so made as aforesaid, shall be recorded at full length in the clerk's office of the county of Queens; and thereupon, and on the payment or deposit by said trustees of the sums to be paid as compensation for the land, and as directed by said order, the said trustees shall be entitled to enter upon, take possession of, and use the said lands for the purposes of this act. Within twenty days after the confirmation of the said report of said commissioners, as above provided, either party may appeal, by notice in writing to the other, to the supreme court, from the appraisal

Guardian for infants, etc.

Court to appoint commissioners

Official oath.

Proceedings to confirm report, etc.

Copy order to be recorded.

Appeal.

and report of the commissioner. Such appeal shall be heard by the supreme court at any general term thereof, on such notice thereof being given, according to the rules and practice of said court. On the hearing of such appeal the court may direct a new appraisal before the same or new commissioners in its discretion; the second report shall be final and conclusive on all the parties interested. If the amount of the compensation to be made by the said trustees is increased by the second report, the difference shall be a lien on the land appraised and shall be paid by the said trustees to the parties entitled to the same, or shall be deposited in the bank, as the court shall direct; and if the amount is diminished, the difference shall be refunded to the said trustees by the party to whom the same may have been paid; and judgment therefor may be rendered by the court, on the filing of the second report, against the party liable to pay the same. Such appeal shall not affect the possession by such trustees of the land appraised; and, when the same is made by others than the trustees, it shall not be heard, except on a stipulation of the party appealing not to disturb the possession.

Adverses
claims.

§ 5. If there are adverse and conflicting claimants to the money, or any part of it, to be paid as compensation for the real estate taken, the court may direct the money to be paid into the said court by the said trustees, and may determine who is entitled to the same, and direct to whom the same shall be paid; and may, in its discretion, order a reference to ascertain the facts on which such determination and order are to be made.

Attorneys
for un-
known
owners.

§ 6. The court shall appoint some competent attorney to appear for and protect the rights of any party in interest who is unknown, or whose residence is unknown, and who has not appeared in the proceedings by an attorney or agent. The court shall also have power, at any time, to amend any defect or informality in any of the special proceedings authorized by this act, as may be necessary; or to cause new parties to be added, and to direct such further notices to be given to any party in interest as it deems proper; and also to appoint other commissioners in place of any who shall die, or refuse, or neglect to serve, or be incapable of serving.

Trustees
to borrow
money.

§ 7. The said trustees shall have power and it shall be their duty to borrow, from time to time, for the purpose of this act, upon the credit of said village of College Point, a sum not exceeding in the whole two hundred and twenty-five thousand dollars, and upon such terms of credit, of not less than twenty nor more than forty years, as shall seem for the best interest of said village, and at a rate of interest not exceeding seven per cent per annum; and to secure said loan, said trustees are authorized to issue bonds of said village, signed by the president and clerk and sealed with the seal of said village, which bonds shall be made of such amounts, respectively, as said trustees shall deem expedient; and shall not be sold for less than par, and the money so borrowed on said bonds shall be appropriated by said trustees to the purposes expressed in this act, and to no other purpose whatever.

Rules,
etc.

§ 8. The trustees of said village are hereby empowered and it shall be their duty to establish rules and regulations for and concerning the use, regulation and operation of said water-works, and may thereby impose penalties and forfeitures for any violation of such rules and regulations, but such penalties or forfeitures shall not in any case exceed twenty dollars; said trustees shall establish a scale of rents to be charged and paid to said trustees from time to time by the owners or occupants of buildings in said village for the supply of water, to be

called "water rents," apportioned to the different classes of buildings in said village in accordance to the dimensions, value, exposure to fire, ordinary or extraordinary uses for stores, dwelling-houses, shops, hotels, factories, stables or other purposes, the number of occupants or consumption of water, and from time to time may either modify, amend, increase or diminish such rents; such water rents shall be assessed and collected at the same time and in the same manner as the village taxes, and shall be, from the time of such assessment, a lien upon real estate to the same extent as the said village taxes are now by law declared to be a lien upon real estate; and said trustees and their agents 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 amount of water used and the manner of using it.

Water rents.

§ 9. The connecting or supply pipes leading from buildings or other private property to the distribution pipes shall be inserted and kept in repair at the expense of the owners or occupants of said buildings or other property, and shall not be inserted or connected with the said distribution pipes until a permit therefor shall have been obtained from said trustees or their agent, duly authorized to grant the same; and all such connecting or supply pipes shall be constructed in the manner directed by said trustees or their said agent.

Connecting of supply pipes.

§ 10. The entire annual receipts for water rents, after deducting therefrom such sums as may be necessary to defray the expenses of repair of said water-works, and extending the same, and other necessary expenses connected therewith, and the proper supply of water to said village, shall be applied toward the payment of interest on the loans on bonds hereinbefore authorized, and also toward the creation of a sinking fund for the payment of the principal of said loan as it shall become payable, which sinking fund shall be under the management of said trustees.

Receipts for water rents.

§ 11. In case the entire receipts for water rents, after making the deductions, as in the last above section provided, shall in any year not be sufficient to pay the interest for that year on the bonds hereinbefore authorized to be issued, 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 deductions, 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, then it shall be the duty of said trustees to cause an amount sufficient to pay such deficiency to be assessed, levied and collected, in addition to other taxes, on and from the taxable property of said village, at the same time and in the same manner as the other taxes of said village are assessed, levied and collected, and the amount so raised shall be applied to the payment of said interest or principal, or both, or the deficiency thereof not otherwise provided for.

Tax to pay deficiency.

§ 12. The trustees of said village shall not borrow any more than one hundred thousand dollars upon the credit of said village of College Point, and shall not issue the bonds of said village, as above provided, for the purposes of this act, and it shall not be lawful for them to do so until an amount greater than one hundred thousand dollars shall have been approved by a majority of the voters of said village of College Point, voting by ballot, at a special election to be called and held by said trustees, by giving at least eight days' notice before such election, by posting such notice in at least six public places, and by publishing said notice in one or more of the papers published in the town of Rushing once a week for two weeks; such notice to specify the amount of

Amount to be borrowed.

Special election.

Ballots

increase of bonds to be voted for at such election. The polls at such election shall be open during such hours, and shall be in all things conducted as are the annual elections for trustees. The ballots received at said election shall be indorsed "water-works," and, in order to be canvassed, shall contain the words "In favor of issuing additional bonds," or the words "Opposed to issuing additional bonds." If a majority of the ballots so canvassed shall contain the words "In favor of issuing additional bonds," then the approval above mentioned shall be considered as having been obtained. A certificate of the result of such election shall be filed by the canvassers thereof, in the office of the county clerk of Queens county, within five days after said election. In case, at any election so held, the approval aforesaid shall not have been obtained, it shall be lawful for said trustees to call and hold subsequent elections, in all respects to be called and conducted as above provided, but no such succeeding election shall be held within six months of the time of holding a preceding election.

§ 13. The said trustees shall have power to call special elections as above provided, from time to time, for the purpose of getting the approval above required for issuing additional bonds, until the whole amount allowed to be issued has been issued; every such election shall be called and held as above provided.

§ 14. This act shall in no way interfere with the right of said trustees of said village of College Point, to co-operate with the trustees of the village of Flushing, for such supply of water in the manner now provided for by law.

§ 15. This act shall take effect immediately.

CHAP. 610.

AN ACT to release the interest of the people of the State of New York in and to certain lands situate in Long Island City, and county of Queens, to Caroline West, and to authorize her to hold and convey the same.

PASSED May 23, 1873, by a twothird vote.

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

Interest of
State re-
leased.

SECTION 1. All the right, title and interest of the people of this State in and to certain lands situate in Long Island City, and county of Queens, which was conveyed to William West, late of the city and county of New York, deceased, by George H. Hunter and Mary Jane, his wife, and Jacob B. Hunter and Jane Ann, his wife, by deed bearing date the thirteenth day of August, one thousand eight hundred and sixty-seven, and recorded in the office of the clerk of the county of Queens, on the twenty-third day of October, one thousand eight hundred and sixty-seven, in liber two hundred and sixty-three of deeds, page four hundred and sixty-eight, is hereby released to and vested in Caroline West, who is the widow of said William West, deceased, and her heirs and assigns forever, subject to any incumbrance that may be on said land at the date of this act; and the said Caroline West is hereby authorized and empowered to take and hold and convey the same in all respects as though at the time of the death of said William West she had been a citizen of the United States.