

L A W S
OF THE
STATE OF NEW YORK,

PASSED AT THE
NINETY-THIRD SESSION

OF THE
LEGISLATURE,

BEGUN JANUARY FOURTH, AND ENDED APRIL TWENTY-SIXTH, 1870,
IN THE CITY OF ALBANY.

VOL. I.



ALBANY:
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1870.

Chap. 133.

AN ACT to supply the village of Ithaca with pure and wholesome water.

PASSED April 1, 1870; three-fifths being present.

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

SECTION 1. Henry B. Lord, Rufus Bates, Charles M. Titus, John Rumsey, and Franklin C. Cornell, and their successors in office, are hereby constituted a body corporate by the name of "Water Commissioners of the Village of Ithaca," and in that name may sue and be sued, complain and defend in any court. Water commissioners.

§ 2. Within twenty days after the passage of this act, the persons named in the foregoing section shall meet at the room of the board of trustees in Ithaca, and shall then and there determine by lot the order in which their term of office shall expire, and the determination so made shall be certified by the clerk of said board of trustees. If said commissioners shall neglect or refuse to assemble and determine as aforesaid, the said board of trustees shall, within twenty days thereafter, make such determination. The term of office of the commissioners first going out of office shall expire on the first Monday of June, eighteen hundred and seventy-three; that of the second on the first Monday of June, eighteen hundred and seventy-four; that of the third on the first Monday of June, eighteen hundred and seventy-five; that of the fourth on the first Monday of June, eighteen hundred and seventy-six; that of the fifth on the first Monday of June, eighteen hundred and seventy-seven. Classification of terms.

§ 3. On the first Monday in June, eighteen hundred and seventy-three, and on the same day in each year thereafter, an election shall be held in said village for the purpose of electing a suitable person to fill the place of the commissioner whose term of office shall expire on that day, and to fill any vacancy that may have occurred, and public notice of such election shall be given by said board of trustees, by publishing notice of such election in all the newspapers of said village once in each week for two weeks previous to such time of election, and such election shall be conducted in all respects as elections for trustees Election of commissioners.

Notice thereof.

How conducted.

Terms of office.	of said village are directed to be conducted, and the term of office of each commissioner (except when chosen to fill a vacancy) shall be the period of five years, and the term of one elected to fill a vacancy shall be the unexpired term of the person whose place he was elected to fill;
Eligibility.	all commissioners shall be electors and tax payers of said village; all commissioners shall continue in office until a successor shall be elected and qualify; in case of failure to hold the election at the time aforesaid, or in case of failure for any cause to elect a commissioner or commissioners at the time aforesaid, said board of trustees shall immediately thereafter name a day for the holding of an election, giving the like notice of such time as above provided, and such election shall be conducted in all respects as provided for the election on the first Monday of June.
Special election, when to be held.	In case of vacancy in office, by death, removal or resignation, or any other inability to serve, the commissioners then duly in office shall fill such vacancy by appointment, and the person appointed shall hold his office until the next annual election, and until another shall be qualified to fill his place.
Vacancies, how filled.	
Oaths of office.	§ 4. Every commissioner, whether elected or appointed, shall, before entering upon his duties of office, and within ten days after notice of election or appointment, take and file with the clerk of said board of trustees the constitutional oath of this State, and shall also enter into a bond to said board of trustees, with sureties to be approved by the county judge of Tompkins county, conditioned for the faithful performance of his duties as such commissioner; the penalty of the bond of each commissioner in office to be in the sum of twenty thousand dollars, and of each commissioner in office subsequent to June first, eighteen hundred and seventy-one, in the penal sum of ten thousand dollars.
Official bond.	
Treasurer.	§ 5. The commissioners shall from time to time, as a vacancy in the office of treasurer shall occur, appoint one of their number treasurer, who shall be subject to removal at the discretion of the commissioners, and who shall perform his duties without fee or reward, and who shall, before he enters upon his duties as treasurer, execute and deliver to said board of trustees a bond in the penalty of fifty thousand dollars with such sureties as shall be approved by the county judge of Tompkins county, conditioned that he will faithfully perform his duties as such treasurer; and such commissioners shall appoint a
His official bond.	

clerk at such compensation as they shall deem just, subject to removal at their discretion. Clerk.

§ 6. A meeting of a majority of the board of commissioners shall be necessary for the transaction of business, though a meeting of less than a majority shall have authority to create a legal adjournment. Business quorum.

§ 7. It shall be the duty of the commissioners to examine and consider all matters relative to supplying the village of Ithaca with pure and wholesome water, and for that purpose they shall have power to employ engineers, surveyors and such other persons as may 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 said village, and shall 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 of Ithaca, all lands, tenements, hereditaments, rights or privileges whatever, and situate at any place within the county of Tompkins, 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 property, real and personal, which may be required for the purposes of this act, as to the amount of compensation to be paid to such owner. Commissioners to employ engineers
Adoption of plans, &c.

§ 8. In case of disagreement between the commissioners and the owners of any property which may be required for the purposes aforesaid, or affected by any operation connected therewith as to the amount to be paid to such owner, or in case such owner shall be an infant or married woman, or insane, or absent from this State, or unknown, or the owner of a contingent or uncertain interest, the supreme court, at any general or special term within the sixth judicial district, shall, upon the application of either party, after ten days' personal notice, or, where such notice cannot be served within this State, after three weeks' notice of such application, published in all the weekly newspapers in said village, nominate and appoint three disinterested persons referees for the Purchase of real estate.

§ 9. The referees shall have power to examine and consider all matters relative to supplying the village of Ithaca with pure and wholesome water, and for that purpose they shall have power to employ engineers, surveyors and such other persons as may 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 said village, and shall 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 of Ithaca, all lands, tenements, hereditaments, rights or privileges whatever, and situate at any place within the county of Tompkins, 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 referees 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 property, real and personal, which may be required for the purposes of this act, as to the amount of compensation to be paid to such owner. Procurement of materials, &c.

§ 10. The referees shall have power to examine and consider all matters relative to supplying the village of Ithaca with pure and wholesome water, and for that purpose they shall have power to employ engineers, surveyors and such other persons as may 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 said village, and shall 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 of Ithaca, all lands, tenements, hereditaments, rights or privileges whatever, and situate at any place within the county of Tompkins, 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 referees 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 property, real and personal, which may be required for the purposes of this act, as to the amount of compensation to be paid to such owner. May enter upon lands and waters.

§ 11. The referees shall have power to examine and consider all matters relative to supplying the village of Ithaca with pure and wholesome water, and for that purpose they shall have power to employ engineers, surveyors and such other persons as may 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 said village, and shall 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 of Ithaca, all lands, tenements, hereditaments, rights or privileges whatever, and situate at any place within the county of Tompkins, 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 referees 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 property, real and personal, which may be required for the purposes of this act, as to the amount of compensation to be paid to such owner. Proceedings to acquire property.

§ 12. The referees shall have power to examine and consider all matters relative to supplying the village of Ithaca with pure and wholesome water, and for that purpose they shall have power to employ engineers, surveyors and such other persons as may 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 said village, and shall 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 of Ithaca, all lands, tenements, hereditaments, rights or privileges whatever, and situate at any place within the county of Tompkins, 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 referees 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 property, real and personal, which may be required for the purposes of this act, as to the amount of compensation to be paid to such owner. Supreme Court, to appoint referees.

Their duties and powers. whole or for each case of disagreement, to examine such property, who, upon being duly sworn faithfully and impartially to discharge their duties, shall estimate and report to said court, at a general or special term in said district, for confirmation, the several sums which will be a just compensation to such owners respectively for the appropriation to the purposes of this act of any property which may be so required, or for the title or use of any such property. Such referees may examine witnesses upon hearings before them, and all evidence taken before them shall accompany said report. In case said report shall not be confirmed by said court as to one or more of such respective owners, the said court shall, upon the same notices before provided, appoint other three disinterested persons as referees, who shall proceed in all respects as above specified as to referees, and the report of such new referees shall be treated as final and shall be confirmed by the court.

New referees, when to be chosen.

Payment to be made on confirmation of report. § 9. Whenever any report of referees shall have been confirmed by said supreme court, the said 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 said report in full compensation for the property so required; and thereupon the said village shall become seized in fee of the property so acquired, and said commissioners and village shall be discharged from all claim by reason of any such appropriation or use.

Village to acquire fee.

Commissioners may borrow money. § 10. The said commissioners shall have power, and it shall be their duty, to borrow from time to time, upon the credit of the village of Ithaca, a sum not exceeding in the whole one hundred thousand dollars, upon such term of credit, not exceeding thirty years, and at a rate of interest not exceeding seven per cent per annum, as shall seem for the best interest of said village; and to secure 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 such 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 the same 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

Rate of interest.

Village bonds to issue.

How executed and when payable.

appropriated by said commissioners to supplying said village with water agreeably with the provisions of this act.

Avails, how applied.

§ 11. Said commissioners shall have power to make all necessary contracts for labor and materials in the construction of the work and all pertaining thereto, and whenever any contracts other than for labor by the day shall be made, said contracts 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 with the same numbers, one of which shall be given to the contractor, one to the said board of trustees, and one retained by the commissioners, and three weeks' public notice shall be given in one or more newspapers published in said village, as the commissioners shall direct, of the times and places at which sealed proposals will be received for entering into such contracts, and the commissioners shall have full discretion as to the acceptance or rejection of any and all sealed proposals; and in case any materials or 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 desire to contract for work or materials, and every person who shall enter into any contract for the supply of materials or the performance of any work, except for labor by the day, shall give satisfactory security to said commissioners for the faithful performance of his contract according to its terms.

Contracts for labor and materials, how executed.

Notice of receiving proposals.

Contractors to furnish security.

§ 12. No commissioner shall be interested, directly or indirectly, in any contract relating to the work, or materials therefor, nor in any work or material for the work, nor for any portion of the water works. Nor shall he receive any compensation for his services, nor for any thing pertaining thereto, further than all necessary expenses and disbursements paid by him.

Commissioners not to be interested.

To receive no salary.

§ 13. The said commissioners, and all persons acting under their authority, shall have the right to use the ground or soil under any street, highway or road within the county of Tompkins for the purpose of introducing water into and through any and all portions of the village of Ithaca, 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 pur-

Use of streets.

Surface to be restored

pose of repairing or relaying water pipes upon like conditions.

Scale of water rents.

How apportioned.

Right to enter buildings, etc., where water is used.

Supply pipes, how kept in repair.

Permits to connect with main pipe.

Receipts for water rents, how applied.

Tax to pay deficiency in interest.

How levied and collected.

§ 14. 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 or times as said commissioners shall prescribe for the supply of water, to be called "water rents," and apportioned to the different classes of buildings in said village, in reference to their dimensions, values, exposures 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 manner of using it.

§ 15. The connecting or supply pipes leading from buildings or yards to the distribution pipes shall be inserted and kept in repair at the expense of the owner or occupants 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 person having charge thereof, and all such connecting or supply pipes shall be constructed in the manner directed by said commissioners or persons in charge.

§ 16. 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, shall be applied toward the payment of the interest on the loans and also toward the creation of a sinking fund for the payment of the principal of the loan as it shall, from time to time, become due and payable, which sinking fund shall be managed by said commissioners.

§ 17. In case the entire annual receipts for water rents, after deducting as in said section sixteen provided, shall, in any year, or any respective years, not be sufficient to pay the interest for that respective year on said loan, 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 contingent expenses of said village are assessed, levied and collected, and with such other contingent expenses, and the same shall be applied to the payment of such interest.

§ 18. The said board of trustees of said village shall annually, on and after the year eighteen hundred and seventy-three, at the same time with the annual assessment of contingent expenses of said village, and in the same manner as other contingent expenses of said village are assessed, levied and collected, cause to be assessed, levied and collected from the taxable property of said village the sum of fifteen hundred dollars, which amount, when collected, shall be paid to said commissioners for the purpose of increasing the sinking fund for the payment of said principal.

Tax for sinking fund.

§ 19. The said commissioners shall, annually, on the first day of March in each year, and at all such other times as required by said board of trustees, deliver to said board of trustees 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, as to meeting the interest upon the principal 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 inspection by said board of trustees and by every elector of said village.

Annual report to village trustees.

What to contain.

Books to be open to inspection.

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

Judgments against commissioners, how enforced.

§ 21. The said commissioners shall have power, from time to time, to make and establish such by-laws, rules and regulations 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 regulations of the times and manner of holding meetings of said commissioners, and for enforcing the

By-laws.

- Regulations for use of water, etc. collection of water rents, and regulating the manner of using water, and generally for transacting, managing and directing the affairs of the commissioners, and may provide regulations as to water used, water and water rents, and enforce the observance thereof, by cutting off the use and supply of water, provided that such by-laws, rules and regulations are not repugnant to this act, and the constitution of this State or of the United States.
- Violations, how punished. § 22. A violation of any of the provisions of this act, by any of such commissioners, shall be deemed a misdemeanor, and, upon conviction thereof of such commissioner, his term of office shall be deemed vacant.
- Village trustees to call tax meeting. § 23. As soon after the passage of this act as possible, a meeting of the resident tax payers of said village, as shown by the last preceding assessment roll of said village, shall be called by the said board of trustees of said village, upon a notice published for ten days in all the daily newspapers in said village, and once in each weekly newspaper published in said village, at which the question shall 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 said commissioners shall not proceed with their duties under this act unless the majority of voters voting at such meeting shall vote in favor of such taxes. Such vote shall be by ballot, and there shall be written or printed on the ballots of those in favor of such taxes, "In favor of taxes for water works," and on the ballots of those opposed, "Against taxes for water works."
- Notice thereof.
- Village taxpayers to vote upon question of tax.
- Form of ballot. § 24. This act shall take effect immediately.

Chap. 134.

AN ACT authorizing persons residing on Indian lands to vote in the nearest election district.

PASSED April 1st, 1870.

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

SECTION 1. Any person residing on the lands of any nation or tribe of Indians in this State, being a qualified voter, shall be entitled to vote in the election district nearest the place of residence of such person, in the same