

L A W S

OF THE

STATE OF NEW YORK,

PASSED AT THE

ONE HUNDRED AND SECOND SESSION

OF THE

LEGISLATURE.

BEGUN JANUARY SEVENTH, AND ENDED MAY TWENTY-SECOND, 1879,
IN THE CITY OF ALBANY.



ALBANY :
A. BLEECKER BANKS, PUBLISHER.
1879.

Chap. 85.

AN ACT further to amend chapter three hundred and forty-seven of the laws of eighteen hundred and sixty-six, entitled "An act to supply the village of Middletown with water for public and private purposes."

PASSED March 13, 1879; three-fifths being present.

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

SECTION 1. Section one of chapter three hundred and forty-seven of the laws of eighteen hundred and sixty-six, entitled "An act to supply the village of Middletown with water for public and private purposes," is hereby amended so as to read as follows:

Village
may take
water
from
streams.

May con-
duct and
convey
same.

May take
and hold
property.

§ 1. The village of Middletown in the county of Orange, is hereby authorized and empowered to take water from the stream known and designated as the Shawangunk kill, at any point of said stream in the town of Mount Hope, or in any town of said county, or any town of the county of Sullivan, or from any other stream in the town of Wallkill, Orange county, or in any town adjoining said town of Wallkill, provided that the rights of owners of mill and other property upon said streams, sustaining damage thereby be paid for by said village as hereinafter provided; and the said village of Middletown is hereby authorized and empowered to conduct and convey such waters from said streams, into and through said village and into the reservoirs, aqueducts and other suitable works now owned or provided, or to be owned or provided by or for said village, for conducting, containing, holding and distributing said waters, in such quantities as the necessities and conveniences of said village may require, or its corporate authorities may deem necessary or proper. And said village is further authorized and empowered, for the purpose of introducing, holding, containing, using and distributing the waters to be taken as aforesaid, to take and hold any land or other property, deemed by its corporate authorities essential for such purpose, and to exercise any powers in that behalf, not inconsistent with the laws of this State, for carrying into full effect the purposes of this act.

§ 2. Section two of said chapter three hundred and forty-seven, is hereby amended so as to read as follows:

Survey
and map
of lands.

Entry
upon
lands.

Survey
or map,
when not
necessary

§ 2. In case any disagreement shall arise between the trustees of said village and the owner or owners of land or other property to be taken for the purposes mentioned in the first section of this act, in respect to the purchase or taking thereof, the said trustees shall cause a survey and map of the lands or other property so intended to be taken or entered upon to be made, on which the land or other property of each owner or occupant, so intended to be taken or used, shall be designated; which map shall be designed by the surveyor or engineer making the same and by the president of said board of trustees, and be filed in the office of the clerk of the county of Orange. The said trustees and any of its officers, agents or servants may enter upon any lands for the purpose of making any examination and of making said survey and map, doing no unnecessary damage. If the said trustees, in the taking and use of any of the waters of the streams mentioned in the first section of this act, do not or shall not seek or propose to

take or use any of the lands lying under, or adjacent to such streams, but shall only take or use, or propose to take or use, a part or portion of the waters passing down and through said streams, it shall not be requisite or necessary for said trustees to cause any survey or map of said streams or the lands adjacent thereto, to be made and filed as provided in this section.

to be made.

§ 3. Section three of said chapter three hundred and forty-seven, is hereby amended so as to read as follows:

§ 3. In case the trustees cannot agree with any owner or occupant of any lands or water, or other property intended to be taken or used for the purposes mentioned in the first section of this act, upon the amount to be paid therefor, after effort made by them for such purpose, the said trustees, in the corporate name and capacity of said village, may apply to the supreme court of the state of New York, at any special term thereof, to be held in the second judicial district, for the appointment of three commissioners, by whom the compensation to be paid for the damages suffered or to be suffered by any person or persons, by reason of taking said lands or other property, or of taking or using said waters or any part thereof, and of constructing any of the works for said purpose, shall be ascertained and determined; and in case of the death, resignation, refusal or disability to act of any of the said commissioners, the 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 their meeting, to be served upon such of the owners of said land and water as can be found in this State, which 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 legal disability of such owner to act, then upon serving notice in like manner upon his or her guardian, or person appointed to act for him or her, as hereinafter directed; and in case any of said owners cannot be found in this State, such notice shall be given to them by publishing the same for six weeks successively in two newspapers published in said county of Orange; and if any of said owners shall be married women, insane, infants or idiots, the said court shall appoint some suitable person to attend in their behalf before said commissioners, and take care of their interests in the premises. The commissioners may issue subpoenas to compel the attendance of witnesses to testify before them, and they, or any one 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 the said court to be filed of record. The trustees shall pay to each commissioner the sum of three dollars per day, for every day necessarily spent by him in the performance of his duties under this act, and to each witness testifying, or if not sworn and testifying, who the commissioners shall certify were properly and necessarily subpoenaed, the sum of fifty cents per day, and four cents per mile going and returning, if living more than three miles from the place of meeting. And the said commissioners so appointed by the court in addition to the power given to, and the duties imposed upon them by law and this act, shall have the power, in and by their report to be made to the court, to fix, determine, limit and prescribe the portion, amount or maximum of the waters of said streams or any of them to be taken by said village, from time to time, for the purposes mentioned in the first section of this act, and the times and periods in which, or the condition, or state of the waters of such streams when

Commissioners to appraise damages, how appointed.

Notice of meeting.

Guardians for infants, etc.

Powers and duties of commissioners.

Compensation.

Fees of witnesses.

Additional powers of commissioners.

Effort to agree before application for commissioners.

the said village may take water therefrom. If the said trustees have already made an effort to agree, with any owner of lands or other property, or with persons interested in the waters to be taken and used by such trustees for the purposes aforesaid, upon the amount of compensation to be paid therefor, then it shall not be necessary and essential to the acquirements of the rights hereby provided for, that any other attempt at such agreement shall be made for agreement, before such application may be made for the appointment of commissioners as herein provided for.

Repeal.

§ 4. All acts or parts of acts inconsistent with the provisions of this act are hereby repealed.

§ 5. This act shall take effect immediately.

Chap. 86.

AN ACT to amend chapter one hundred and eighty-one of the laws of eighteen hundred and seventy-five, entitled "An act to authorize the villages of the State of New York to furnish pure and wholesome water to the inhabitants thereof."

PASSED March 13, 1879; three-fifths being present.

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

SECTION 1. Section two of chapter one hundred and eighty-one of the laws of eighteen hundred and seventy-five, entitled "An act to authorize the villages of the State of New York to furnish pure and wholesome water to the inhabitants thereof," is hereby amended so as to read as follows:

Water commissioners.

§ 2. For the purposes of this act, said authorities are hereby defined to be, in villages, the president and 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.

§ 2. This act shall take effect immediately.

Chap. 87.

AN ACT to amend section one, chapter three hundred and two, laws of eighteen hundred and seventy-eight, entitled "An act in relation to the taking of clams, oysters and shell-fish within the waters of this State, and dredging for the same."

PASSED March 17, 1879.

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

SECTION 1. Section one of chapter three hundred and two of the laws of eighteen hundred and seventy-eight, is hereby amended so as to read as follows: