

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.

him for that purpose, make an order requiring the same to be produced, and enforce obedience thereto, and punish disobedience thereof, in the same manner in which obedience to other orders made by him is enforced, or disobedience thereof punished.

§ 5. This act shall take effect immediately.

Chap. 771.

AN ACT to amend the several acts in relation to the city of Rochester.

Passed May 20, 1872; three-fifths being present.

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

SECTION 1. Section forty of the act entitled "An act to amend and consolidate the several acts in relation to the charter of the city of Rochester," passed April eighth, eighteen hundred and sixty-one, is hereby amended by adding thereto the following:

But the common council shall have no power to continue the erection of a city hall in said city, already commenced by it, nor to erect or furnish any city hall or other public building in said city, except school-houses and engine-houses.

§ 2. Section forty-eight of said act, as amended in eighteen hundred and seventy-one, is hereby amended so as to read as follows:

§ 48. On the last Tuesday in the month of March, in each year, the common council shall audit and settle the accounts of the city treasurer, and the accounts of all other officers and persons having claims against the city, or accounts with it, and shall make out a statement in detail of the receipts and expenditures of the corporation during the preceding year, in which statement shall be clearly and distinctly specified the several items of expenditures made by the common council; the objects and purposes for which the same were made, and the amount of money expended under each; the amount of taxes raised for the general contingent expense; the amount raised for lighting and watching the city; the amount of highway taxes and assessments; the amount

Common council to erect no building except school and engine houses.

Accounts of city officers when to be audited by common council.

Financial statement.

of assessments for opening, paving, repairing and altering streets, and for repairing and building bridges; the amount borrowed on the credit of the corporation, and the terms on which the same was obtained, and such other information as shall be necessary to a full understanding of the financial concerns of the city, which statement shall be signed by the mayor and clerk, and filed with the clerk of the city, and the same shall be published by the clerk, at the expense of the city, in the newspapers thereof in which the proceedings of the common council are published. The common council shall at its first regular meeting (after the passage of this act, and at its first regular meeting) in each year thereafter, designate and select two and no more of the daily newspapers published in said city, for the publication of the proceedings, resolutions and ordinances of the common council, the commissioners of public works of said city, and all the notices and advertisements and proceedings of any of the officers of said city, and of all the committees of the common council, during the current fiscal year. Such papers shall be the two papers having the largest daily circulation, which circulation shall be determined by their subscription list respectively for three months prior to such designation; to be verified by the oath of one or more of the publishers of such papers.

To be signed by mayor and clerk and published.

Official newspapers.

§ 3. Section sixty-two of said act is hereby amended so as to read as follows: In case of the absence or inability of the mayor to act as such, or in case his office shall become vacant by death, resignation or otherwise, the president of the common council shall possess all the powers and perform all the duties of mayor during such absence or inability, or during the remainder of his term of office in case of a vacancy therein.

President of common council, when to act as mayor.

§ 4. Section one hundred and twenty-eight of said act, as amended by chapter one hundred and thirty-two of the Laws of eighteen hundred and sixty-two, and by chapter one hundred and twenty-one of the Laws of eighteen hundred and sixty-three, is hereby amended so as to read as follows:

§ 128. Immediately after receiving such rolls and warrants, the county treasurer shall give public notice by advertisement in all the daily newspapers printed in

County treasurer to publish notice to tax-payers

to pay
taxes.

the city of Rochester, that all persons named in said rolls are required to pay their taxes to him at his office on or before the fifteenth of February then next, and stating the amount to be added if payment shall be delayed. The said county treasurer shall receive the amount of any tax levied on said assessment rolls during the month of December, and up to the fifteenth day of January then next, without any addition thereto. If the same shall be paid after the fifteenth day of January and before the first day of February next succeeding the levying of said tax, he shall charge and receive an addition of one per cent.; if paid on or after the first day of February, and before the fifteenth day of February then next, an addition of two per cent.; if paid after the fifteenth day of February then next, and before the first day of March, an addition of three per cent.; if paid after the first day of March, and before the fifteenth day of March then next, an addition of four per cent.; if paid after the fifteenth day of March, and before the first day of April then next, and addition of five per cent. and collectors' fees.

Percent-
age.

Money re-
ceived for
sale of city
hall, how
disposed
of.

§ 5. Section one hundred and nineteen of said act is hereby amended by adding thereto the following: All money or property which has been or shall be received by the said city from the board of supervisors of Monroe county, for the sale of the interest of said city in the city hall heretofore erected by said city in conjunction with the board of supervisors aforesaid, shall be appropriated by the common council to the payment of the existing indebtedness of said city incurred for the erection of said city hall, and the balance, if any, shall be appropriated to the payment of the contingent expenses of said city, and to no other use or purpose whatever.

§ 6. Section one hundred and fifty-five of said act is hereby amended so as to read as follows:

The com-
missioners
of public
works of
the city of
Roches-
ter, term
of office,
etc.

§ 155. The mayor of said city shall, within ten days after the passage of this act, appoint, in writing, five electors and tax payers of said city, who shall constitute "The Commissioners of Public Works of the city of Rochester." They shall be appointed for one, two, three, four and five years respectively. Each of said

commissioners shall, within five days after receiving written notice of his appointment, notify the mayor in writing of his acceptance thereof, and failure to give such notice shall be deemed a refusal to accept. The term of office of said commissioners having the shortest time to serve and shall expire at noon on the last day of May, eighteen hundred and seventy-three. The term of office of commissioners hereby created shall be deemed to commence on the first day of June and to end on the last day of May, and to continue for five years, and until their successors are duly appointed and qualified. The mayor shall, within twenty days before the expiration of the term of office of any commissioner, appoint, in writing, his successor. Whenever a vacancy in the office of any of said commissioners shall occur by death, inability to act, removal from the city or removal from office, the same shall be filled by the mayor in the same manner as hereinbefore provided. In case of the death or neglect of the mayor who shall have been chosen by the electors of said city to make any such appointment, the same shall be made by the president of the common council, and in the same manner. The said commissioners, before entering upon the duties of their office, shall take and file in the office of the city clerk the same oath of office as is now required of other city officers. They may each be removed from office by the mayor for official misconduct, or for the unfaithful or insufficient discharge of the duties of such office. But five days' notice in writing of the charges preferred shall be given to the commissioners so proceeded against and an opportunity of being heard in his defense shall be afforded. Each of said commissioners shall receive a salary of seven dollars for each day upon which he shall be actually engaged in the performance of his duties, to be paid by the city treasurer upon the certificate of said commissioners duly verified, to be paid on the first day of each month. The necessary disbursements and expenses of said commissioners in the discharge of the duties of their office shall be in like manner certified to, and paid by the said treasurer. It is hereby made the duty of the common council to raise annually, in the same manner and at the same time

Vacancies, how filled.

Official oath.

May be removed for misconduct.

Salary.

Common council to raise

with the other general taxes of said city, an amount sufficient to pay the aforesaid salaries, disbursements, and expenses of said commissioners. Such salaries, disbursements and expenses for the year ending June first, eighteen hundred and seventy-three, shall be paid from the funds raised and to be raised for the construction, improvement, and repair, and cleaning of streets, alleys, avenues, bridges and sewers, and for the general contingent expenses of said city during said year, under the existing provisions of said act, and if the same shall be insufficient the city treasurer, with the approval of the mayor, is directed to borrow, upon the faith and credit of said city, a sum sufficient therefor.

On or before the first day of June in each year hereafter, said commissioners shall present to the common council a statement of the funds which they deem will be needed by them for the current fiscal year in the discharge of the duties of their office, specifying in detail the purposes for which they are to be used. It is hereby made the duty of said common council to raise annually, in the same manner and with the other general taxes of said city, the amount so reported as necessary by said commissioners. Said commissioners shall elect one of their number chairman, and may employ a clerk and said other agents, as they shall deem necessary, whose compensation shall be fixed by said commissioners, and paid by the city treasurer upon their certificate duly verified, in the same manner as other expenses of said commissioners. They shall meet at such times and place as they may designate, and a majority shall constitute a quorum for the transaction of business, and shall have power to do all acts hereby authorized, except as herein otherwise provided. They shall keep a record of their proceedings, and of their receipts and expenditures, which shall be at all times open for inspection by any of the officers or tax payers of said city. The said commissioners shall be commissioners of highways for said city, and shall have the exclusive care, superintendence and control of all the streets, avenues, walks, bridges, lanes, alleys, parks, public squares, areas, and places in said city, except the bridges therein owned by the State of New York, for the repair

amount to pay same.

Statement of funds required to be presented by commissioners to common council.

Common council to raise amount.

Commissioners to elect a chairman and employ a clerk.

Meetings.

Record of proceedings.

To be commissioners of highways.

of which, or for any damages in any way arising from which, the said city shall not be liable. The said commissioners shall possess and exercise the same powers and authority, and perform the same duties, and in the same manner as near as may be, as are now possessed, exercised and performed by the common council of said city, as authorized and prescribed by title seven of this act as amended, except as herein otherwise directed.

General powers and authority.

§ 7. Section one hundred and sixty-four of said act is hereby amended so as to read as follows:

Proceedings on opening streets, etc.

§ 164. The said commissioners of public works shall not proceed to open, widen, or improve streets, lanes, alleys, sidewalks, crosswalks, nor to make any other improvement, the expense whereof is to be defrayed in whole or in part by a local assessment, until first requested by a petition signed by a majority of the owners of property liable to be assessed for said improvement; or unless at least four of said commissioners shall concur in determining to make said improvement, after allegations shall have been heard from the persons to be assessed therefor; in which case, no petition or request shall be necessary. Such owners shall have the right to designate the kind of improvement they prefer, and said commissioners of public works shall adopt and carry out such method of improvement. But no improvement which shall be subject to a royalty to the inventor, patentee, or assignee of a patent therefor, shall be adopted, unless upon the petition of two-thirds of all the owners to be assessed therefor, who shall be residents of said city.

§ 8. Section one hundred and sixty-five of said act, as amended by chapter five hundred and fifty-three of the Laws of eighteen hundred and sixty-five, is hereby amended by adding thereto the following: The said commissioners of public works are hereby directed to cause a notice to be published in the official newspapers of said city for at least ten days before the letting of any contract, for sealed proposals therefor, to be accompanied by the bond of the person or persons who shall execute such proposals, which shall also be signed by two or more sureties, and shall bind the obligor therein to perform the work mentioned in such proposals, and

To advertise for proposals.

Contract
to be let.

to fulfill any contract that may be made therefor by said commissioners of public works. Upon the day named in said notice, or upon such other day as the said commissioners may adjourn to, the said commissioners may let the said contract, as they shall deem for the best interest of the tax-payers, and neither the principal nor the sureties upon any proposal or bond shall be permitted to withdraw or cancel the same, or be released therefrom, until said commissioners shall have let said contract, and the same shall have been duly executed on behalf of said commissioners and such contractor. No assessment for a local improvement shall be made for an amount greater than the amount of the contract therefor, or the amount of the expense estimated by such commissioners as herein provided.

§ 9. Section one hundred and ninety-one of said act, as amended by chapter seven hundred and eighteen of the Laws of eighteen hundred and seventy, is hereby amended by striking out therefrom the following words: "The costs and expenses of making the plans and assessments and other expenses incidental thereto, shall be included in the estimated expense of the improvements."

Evidence,
objec-
tions, etc,
to be re-
duced to
writing
and filed.

§ 10. Section one hundred and ninety-eight of said act, as amended by chapter five hundred and fifty-seven of the Laws of eighteen hundred and seventy-one, is hereby amended by adding thereto the following: All evidence, objections and proceedings had and taken before said commissioners of public works, or said common council, shall be reduced to writing, and within five days thereafter shall be filed with the clerk of said city. Any person considering himself aggrieved by any such assessment may appeal to the common council, who shall proceed to correct or confirm the said assessment.

Expenses
of im-
prove-
ments,
how
assessed.

§ 11. The city assessors shall assess the amount of the expenses of any improvement ordered by said commissioners of public works, in the same manner, and report the assessment roll so made by them to said commissioners in the same manner, and the same proceedings shall be taken by said assessors and said commissioners as is provided in sections one hundred ninety-three, one hundred ninety-four, one hundred ninety five, one hun-

dred ninety-six, one hundred ninety-seven, one hundred ninety-eight and one hundred ninety-nine of said act, and of the amendments thereto subsequently made, for said assessors, and the common council of said city to take.

§ 12. The city treasurer shall take the same proceedings to collect any such assessment so ordered by said commissioners of public works, and so made by said assessors, as he is now authorized and directed to do by said act, and the amendments thereof now in force. And he shall make such payments from the money collected by him upon any local assessment as shall be directed and ordered by said commissioners.

How collected.

§ 13. The said commissioners of public works shall have the same authority, and it is hereby made their duty, to take the same proceedings for the correction of erroneous assessments and the collection thereof, as is now prescribed for the common council in said title seven of said act. Whenever the words "common council" occur in said title seven as now existing, they shall be deemed to mean "the commissioners of public works of the city of Rochester."

Correction of erroneous assessments.

§ 14. No one or more of said commissioners, nor any clerk or agent of said commissioners shall be directly or indirectly interested in any contract, work or business, or the sale of any article, the expense, price or consideration of which is to be paid from the city treasury, or by means of any assessment levied by any act or ordinance or resolution of said commissioners, or of said common council, nor in the purchase of any property for, or on account of the city, or which shall be sold by or on behalf of said city. All contracts, sales or purchases in which any such commissioner, clerk or agent shall be directly or indirectly interested shall be deemed forfeited as to any interest of any such commissioner, or person, and any commissioner or person who shall knowingly violate any of the provisions of this section shall be guilty of a misdemeanor, and shall be punished by a fine not exceeding five hundred dollars or by imprisonment in the Monroe county penitentiary not exceeding one year, or by both such fine and imprisonment.

Commissioners, nor any clerk or agent to be interested in any contract, etc.

Penalty for violation of this section.

Commissioners not to incur debts beyond amount reported to common council.

§ 15. The said commissioners shall not contract or incur any debt or liability on behalf of said city in any year, beyond the amount so estimated and reported by them to the common council as needed by them for the current year, as hereinbefore provided, except during the present fiscal year.

Surveyor and attorney to perform such duties as required by commissioners.

§ 16. The city surveyor and city attorney shall perform such duties for said commissioners as they may require, as it is now the duty of said officers respectively to perform under the direction or at the request of the common council, or any committee thereof, without compensation beyond their salaries as now provided by law.

Superintendent of streets abolished.

§ 17. The office of superintendent of streets and of commissioners for certain avenues in said city is hereby abolished.

Commissioners to assume exclusive control of improvements and works.

§ 18. When the said commissioners shall be appointed and qualified, they shall immediately assume the exclusive control of all such matters, improvements and works as are mentioned in said title seven of said act and the amendments thereof now in force, as have been ordered or commenced by said common council, and of the cleaning and repairing of streets and avenues in said city, except where contracts therefor have been already let.

Authority of common council over same to cease.

§ 19. Upon the taking effect of this act, all the authority of the common council over the subject-matters embraced in the preceding section of this act shall cease and determine, except as herein otherwise provided. But this act shall not destroy or impair any vested rights or contracts.

Proceedings of common council in relation to Lake avenue confirmed.

§ 20. The proceedings of the common council of said city heretofore had in relation to the improvement of Lake avenue with the McAdam improvement, and also the assessment roll heretofore made by the city assessors therefor, are hereby confirmed in all respects. The street railroad track at present running through the center of said avenue, may, under the direction of said common council, be relaid on each side of said avenue, and outside of the improvement aforesaid, from the north line of McCracken street southward so far as

Railroad track may be relaid.

said improvement extends, and then southward in corresponding lines to the north side of Lyell street.

§ 21. The act entitled "An act in relation to the location and erection of public buildings for the use of the city of Rochester," passed April twelfth, eighteen hundred and seventy-two, is hereby amended by adding thereto the following:

All acts and parts of acts inconsistent with this act are hereby repealed. All power of the common council of the said city, if any, over the erection of a city hall therein, shall cease and determine immediately.

Act of 1872 amended so as to prevent erection of city hall.

§ 22. The board of water commissioners appointed under the act entitled "An act to supply the city of Rochester with pure and wholesome water," passed April twenty-seventh, eighteen hundred and seventy-two, are hereby authorized to acquire by purchase, for and in behalf of the city of Rochester, the title to any lands, waters, lakes, springs, ponds or streams, or any easement in or right of temporary occupation of such lands, waters, lakes, springs, ponds or streams which may be necessary for the purposes for which said commissioners are appointed.

Board of water commissioners may acquire title to lands, etc.

§ 23. In case the said commissioners are unable to obtain by purchase the title to the necessary lands, waters, etcetera, or such rights therein as may be required they shall be and hereby are authorized to proceed to acquire such title or other rights in and to such lands, waters, etcetera, in the manner prescribed in and by the act to authorize the formation of railroad corporations and to regulate the same, passed April second, eighteen hundred and fifty; and for that purpose all the provisions of the last mentioned act, and of the acts amendatory thereof, are hereby made applicable to proceedings under this act and the act hereby amended.

Title, how acquired.

§ 24. The said water commissioners are hereby authorized to enter upon any public street, highway, road, public square, bridge or railroad in any of the villages or towns adjoining or in the vicinity of the said city, through, under or across which it may be found necessary or proper to conduct the water from any river, lake, spring, pond or stream of water, for the purpose of conveying it to said city, and to lay, construct, alter

May enter upon any street, square, etc., in any village or town in vicinity of the city and lay pipes, conduits, etc.

Proviso as to consents to be obtained.

May contract with village trustees to supply village with water.

Compensation of water commissioners.

Amount of city bonds to be issued.

Penalty for either commissioners, clerk, etc., to be in any manner interested in furnishing supplies, etc.

Chapter 143, Laws of 1861, as amended by chap-

replace or repair any pipes, conduits, aqueducts, or other works necessary for that purpose, leaving said street, highway, road, public square, bridge or railroad, in the same condition, as nearly as may be, as they were before the said entry; provided, however, that before interfering with any street, structure or other right of any incorporated village or railroad company, it shall be necessary to obtain the consent of the trustees of such village or directors of such railroad company, or in case such consent cannot be obtained, then to proceed to acquire the necessary rights in the same manner as the title to rights in other lands are acquired; and the said commissioners may contract with the trustees of any village through which such pipes, etc., may be laid, to supply such village with water; and in case such contract shall be in any instance made, the village authorities are hereby authorized to levy and collect the expense thereof annually, with their annual tax for other purposes, upon the property liable to taxation in said village.

§ 25. The said water commissioners shall severally receive the sum of five dollars per diem besides their reasonable expenses, for the time employed by them respectively as such commissioners, not exceeding, however, to each commissioner the sum of one thousand dollars in any one year.

§ 26. The amount of the bonds of said city of Rochester, to be issued under the provisions of this act, shall not exceed the sum of three millions of dollars.

§ 27. It shall be a misdemeanor punishable by fine or imprisonment for either of said commissioners or any clerk, engineer or superintendent appointed by them to be in any manner or way interested, directly or indirectly, in furnishing any materials, supplies, or labor for the erection of said water-works or in any contract which said commissioners are empowered to make by this act, and every purchase or contract in which any such person is interested shall be deemed forfeited as to any interest of any such person.

§ 28. Section eighty-five of chapter one hundred and forty-three of the Laws of eighteen hundred and sixty-one, as amended by chapter seven hundred and thirty-

eight of the Laws of eighteen hundred and sixty-eight, is hereby amended by striking out therefrom the words "three thousand three hundred," and inserting in place thereof the words "two thousand seven hundred." Also by striking out therefrom "the Erie canal to Mt. Hope cemetery entrance," and the words "South avenue from the Erie canal to the city line," where they occur; also, by striking therefrom all after the words "from the railroad to Scranton street" and before the words "the common council shall annually," and in place thereof insert the following:

ter 738,
Laws of
1863, fur-
ther
amended.

"But no more than three hundred dollars for each of said streets or avenues shall be raised in any one year, also a further sum not exceeding fifteen hundred dollars for the purpose of cleaning and keeping in repair North St. Paul street, from Scranton street to the city line, Mount Hope avenue, from the Erie canal to Mount Hope cemetery entrance, and South avenue, from the Erie canal to the city line, but no more than five hundred dollars for each of said streets or avenues shall be raised in any one year."

§ 29. All acts or parts of acts inconsistent with this act are hereby repealed.

§ 30. This act shall take effect immediately.

Chap. 772.

AN ACT to authorize the Canal Commissioners to construct a road-bridge over the Erie canal in the town of Gates, in the county of Monroe.

Passed May 20, 1872; three-fifths being present.

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

SECTION 1. The Canal Commissioners are hereby authorized and required to construct, or cause to be constructed and maintained, at the expense of the State, over the Erie canal, in the town of Gates, in the county of Monroe, at a point where said canal is intersected by Emmerson street, in said town, a road-bridge, in such manner as they may deem advisable, and the expense

Bridge
over canal,
in Gates.