

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

BEGUN JANUARY FOURTH AND ENDED MAY THIRD, 1876,  
IN THE CITY OF ALBANY.

VOL. I.



ALBANY :  
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1876.

## Chap. 36.

AN ACT to enable the electors of the town of Sherburne to vote upon the question of accepting a certain bequest.

Passed February 28, 1876.

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

Acceptance of Rexford bequest to town.

SECTION 1. The electors of the town of Sherburne, in the county of Chenango, are hereby empowered to determine, at the next annual town meeting held in said town, in the manner provided by law for the determination of questions upon motions made at town meetings, whether the citizens of said town accept the demise to said town of the Falls properly so called, situated in said town, in which are the ravine of Mad brook, the Falls and Sulpher Spring, which is demised to said town by the will of Nelson C. Rexford, a native of said town, who died March twenty-six, eighteen hundred and seventy-five, and the bequest of one hundred dollars to fence said property, also contained in said will.

If accepted.

§ 2. If the citizens of said town, by a majority vote of the electors voting, accept the said demise and bequest, then the said town shall be seized of the said lands in fee simple, and hold the same for the uses and objects stated in the said will.

§ 3. This act shall take effect immediately.

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## Chap. 37.

AN ACT to amend chapter one hundred and forty-three of the laws of eighteen hundred and sixty-one, entitled "An act to amend and consolidate the several acts in relation to the charter of the city of Rochester," passed April eight, eighteen hundred and sixty-one, and the various acts amendatory thereof or relating to the city of Rochester.

Passed March 1, 1876; three-fifths being present.

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

Commission of public works abolished.

SECTION 1. Sections six, seven, eight, ten, eleven, twelve, thirteen, fourteen, fifteen and nineteen of an act passed May twenty, eighteen hundred and seventy-two, entitled "An act to amend the several acts in relation to the city of Rochester," are hereby repealed, and the office of "commissioner of public works of the city of Rochester" is hereto abolished, but said commissioners shall possess and execute the powers heretofore given them until the first Monday of May, eighteen hundred and seventy-six, except that no ordinance for public improvements or opening of streets shall be passed by said board of public works after the passage of this act, and the repeal by this section directed shall take effect on that day.

SECTION 2. Section one hundred and fifty-five of an act entitled "An act to amend and consolidate the several acts in relation to the charter of the city of Rochester," passed April eight, eighteen hundred and sixty-one, as heretofore amended, is hereby amended so as to read as follows:

§ 155. There shall be an executive board of said city, which shall consist of six electors and freeholders therein, three of such board shall be chosen by the electors of said city in the same manner as other city officers, at the election to be held in March, eighteen hundred and seventy-six, for terms of one, two and three years respectively, the mayor of said city, during the month of April in said year, shall nominate the other three of said board for terms of one, two and three years respectively, subject to approval by the majority of the common council. In each succeeding year, one of such board shall be elected by the people and one nominated by the mayor during the month of April, subject to approval of the common council, as above provided, for terms of three years. The mayor shall appoint such persons that each of the two chief political parties shall have three members of such board. Any vacancy shall be filled by the mayor as above provided, for the residue of the term, or until a successor can be elected by the people and has qualified. The terms of the members of such executive board shall begin on the first Monday of May, eighteen hundred and seventy-six, and any member shall hold until his successor is appointed, confirmed and qualified. Each of such board shall take the oath of office required of other city officers within five days after being notified of his election or confirmation by the common council, and a failure so to do shall be deemed a refusal to serve. Each of said board shall give a bond in such amount and with such sureties as the common council may approve, conditioned for the faithful performance of his duties. Any of such board may be removed by the common council for official misconduct by a vote of two-thirds of all the members elected to the said council, but notice in writing shall be given of the charges made and he shall have an opportunity of being heard in his defense. The salary of the members of such board shall be fixed by the common council and paid by the city treasurer in the same manner as the salaries of officers elected by the common council. Such executive board shall have the sole power to let all contracts to be made by said city in pursuance of any ordinance, except such as are by law directed to be otherwise made, and shall superintend the execution of the same, and shall have superintendence and control of all work or improvements ordered by the common council, and of paying the same. Such executive board shall, upon the first day of October, eighteen hundred and seventy-six, assume, and thereafter have control of the water-works of said city, and of furnishing the water to citizens, and of the care and repair of such works, and to that end shall have the powers granted to the board of water commissioners of said city by section three of chapter seven hundred and fifty-four of the laws of eighteen hundred and seventy-three, and to that end they may make such rules and regulations, establish such rates and employ such assistance as they may deem proper. Any act of said executive board may be vetoed by the mayor, and any act so vetoed shall be null and void unless repassed by a two-thirds vote of all the members of said board. All moneys received from water rates or the use of water shall, at the close of each day, be paid to the city treasurer, and, after paying the expenses of the charge, care and repair of such works, shall be applied solely to the payment of the interest and principal of the water-works bonds of said city. No moneys shall be paid out of such receipts save on a vote of a majority of such executive board, and on an order drawn by its clerk and approved by the mayor. Such executive board shall have control of the fire department of said city and of the care and expenses thereof, and is hereby vested with the powers heretofore vested in the common

Executive board created.

Vacancies in board.

Oath of office, and bonds.

Members may be removed.

Salaries.

To let contracts.

Care of water-works.

Mayor's veto.

Water rates.

To control fire department.

council of said city by sections two hundred and nineteen, two hundred and twenty-two and two hundred and twenty-three of this act, except that no fire-engine shall be purchased or sold and no engine-house built except by a resolution of the common council. Said board shall have control of the construction, improvement, repair and cleaning of streets, alleys, avenues, sewers and bridges, except the bridges owned by the State of New York, for the repair of which, or any damages in any way arising from which the city shall not be liable, and shall have control of the expenditure of the funds therefor; but whenever the expense of any such work or improvement shall require to be defrayed by a local assessment, the common council of said city shall alone have power to pass any ordinance therefor, subject to the veto of the mayor, as hereinbefore provided, and in the manner and subject to the restrictions established by the charter of said city, as hereby amended. A majority of said executive board shall constitute a quorum for any purpose. Said board may employ such assistance and establish such by-laws for its meetings and proceedings as it may see fit. Such board shall elect one of its own members as its clerk, who shall receive no additional compensation for his services. On or before the first day of June in each year said board shall present to the common council a statement of the moneys needed by it for the fiscal year, specifying the purposes for which it shall be used. It shall be the duty of the common council to raise the sums so reported in the same manner as other general city taxes. All moneys paid under the order of such executive board shall be paid by virtue of an order on the treasurer of the city, drawn by the clerk of said board, under a resolution which must receive a vote of the majority of all the members of said board and be approved by the mayor of the city. The members of such board shall give their entire time to the duties of the office, and shall make monthly reports to the common council of all work done, contracts let and expenses incurred. They shall keep a record of their proceedings and of all receipts and expenditures, which shall be published in at least one daily paper in said city.

**Local im-  
provements.** Estimate of ex-  
penses. Raising of money. Money, how paid.

**Quorum.** Members of board, to devote their entire time to duties of office, and report monthly, etc.

**May employ assistance. Clerk.** Records. To assume control.

**§ 3.** On said first Monday of May, eighteen hundred and seventy-six, said executive board shall assume control of all work, contracts, moneys or matters begun or controlled by the commissioners of public works of the city of Rochester, and which shall rightfully belong to said executive board, under the authority hereby granted. On said day all authority, rights and duties heretofore possessed by said commissioners of public works, except such as are hereby conferred upon the executive board of said city, shall vest in and be thereafter exercised by the common council of said city, to be performed and possessed in the same manner, as near as may be, as heretofore performed by said commissioners, except as herein otherwise directed.

**Members of board, and officers thereof, of not to be interested in contracts, etc.** **§ 4.** No member of said executive board, nor any clerk or agent thereof, 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, 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. Any contract, sale or purchase in which any such person above named shall be interested, shall be absolutely void. Any person violating 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 not exceeding one year, or both.

**Superin-  
tendent.** **§ 5.** Said executive board may appoint a superintendent of streets,

who shall hold office at its pleasure, the salary of such superintendent shall be fixed by the common council.

tendent of streets.

§ 6. Section sixty-one of said act is hereby amended so as to read as follows:

§ 61. It shall be the duty of the superintendent of streets to superintend, under the general direction of the executive board, all work to be done, or ordered upon or in relation to any of the public streets, parks, walks, bridges, sewers, pumps or reservoirs of said city, and to perform, under the direction of said board, such other duties as are by law imposed upon him. If no superintendent of streets shall be appointed, then all powers and duties by this act, given and imposed upon him, shall belong to, and be performed by, the executive board of said city.

His duties.

When none appointed.

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

§ 165. Before the common council shall determine to make any such public improvement, they shall cause an estimate thereof to be made, and shall, by an entry in their minutes, describe the portion and part of the city which they deem proper to be assessed for the expense of such improvement. They shall cause a notice to be published daily in one or more daily newspapers printed in the city of Rochester, for four days, which notice shall specify such improvement, the estimated expense thereof, and the portion or part of the city to be assessed for such expense; and shall require all persons interested in the subject-matter of such improvement to attend the said council at the time appointed in such notice. At the time appointed in such notice, the said council shall proceed to hear the allegations of the owners and occupants of houses and lots situate within the portion or parts of the city so described as aforesaid, and after hearing the same, shall make such further order in respect to such improvement as they shall deem proper. Said executive board is hereby directed to cause a notice to be published in one or more of the official papers of said city, at least ten days before the letting of any contract, for sealed proposals therefor, each to be accompanied by a bond signed by at least two responsible sureties, conditioned that the person making such bid, if it is accepted, will perform the work mentioned in such proposals and fulfill any contract that may be made with him; such bids shall be opened on the day named in such notice. Said board may let any contract as it deems for the best interests of tax payers, but it shall publish all bids received by it, and the persons to whom contracts are awarded. Neither the principal or sureties on any bid or bond shall have the right to withdraw or cancel the same, until the board shall have let the contract for which such bid is made and the same shall have been duly executed. No contract shall be let for any improvement at a price greater than the estimate thereof made, as aforesaid.

Common council, and public improvements.

Letting of contracts.

§ 8. Whenever the words "commissioners of public works" occur in the charter of the city of Rochester, they shall be struck out and the words "the common council" shall be inserted in the place thereof, except as herein otherwise provided.

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

§ 164. The common council shall not open or widen any street or alley, or make or ordain any work or improvement, the expense whereof is to be defrayed in whole or in part by a local assessment except upon a petition of a majority of the owners of property to be assessed therefor, unless three-fourths of all the members elected to said common council vote therefor, after allegations have been heard. No improve-

Local assessments for improvements.

When improvements covered by letters patent.

ment which shall be covered by letters patent shall be adopted, except upon the petition of two-thirds of all the owners of property to be assessed therefor.

§ 10. Section six of said act is hereby amended so as to read as follows:

Officers of city government.

§ 6. The officers of said city shall be one mayor, one treasurer, two aldermen for each ward until the first Monday in April, eighteen hundred and seventy-seven, and one alderman from each ward thereafter, one police justice, three justices of the peace, one constable for each ward, one supervisor for each ward, three inspectors of election for each ward or election district, one commissioner of schools for each ward, all to be elected by the electors of said city, by ballot, as hereinafter provided, one city clerk, one city attorney, one overseer of the poor, three assessors, one sealer of weights and measures, one city surveyor, one chief of the police, one chief engineer and one fire marshal, to be appointed as hereinafter provided, and such other officers as are by this act or the laws of this State authorized. There shall be an election for aldermen in the year eighteen hundred and seventy-six, to hold office for one year, but at the election to be held in March, eighteen hundred and seventy-seven, an alderman to hold office for two years shall be chosen from each of the wards having an even number, and an alderman to hold office for one year from each ward having an odd number, and thereafter aldermen shall be elected for two years, as the terms expire of those elected for the respective wards.

Election of aldermen.

§ 11. Subdivision four of section twelve of said act is hereby amended so as read as follows:

Police commissioners.

4. The said commissioners of police, when entering upon the duties of their office respectively, shall take upon themselves the usual oath of office, and shall meet at the mayor's office or other suitable place, at such times as may be expedient, and as they shall from time to time designate, and on special occasions, as the mayor may appoint in writing, notice of which shall be served on such commissioners personally, or be left at the place of residence or business of such commissioners respectively; and if any of said commissioners should be elected to and accept the office of mayor, then the common council shall proceed, as in the case of vacancy, except in case of re-election of the mayor; and no alderman shall be eligible for appointment to the office of police commissioner, and any commissioner except the mayor, who shall be publicly nominated for or appointed to any political office, and shall not, within ten days after being notified thereof, publicly decline the same, shall be deemed to have vacated his office of said commissioner. The said commissioners of police, other than the mayor, shall receive an annual salary of five hundred dollars, to be paid quarterly out of the current expenses of the police department, the same to begin at the commencement of the official year in which this act shall be passed, except those now holding such office shall receive the same salary as heretofore during the residue of their term.

When one is elected mayor.

Aldermen not eligible as police commissioner. Office of commissioner when vacant. Salaries of commissioners.

§ 12. All acts and parts of acts inconsistent with the provisions of this act are hereby repealed.

§ 13. This act shall take effect immediately.