

L A W S

OF THE

STATE OF NEW YORK,



PASSED AT THE

ONE HUNDREDTH SESSION



OF THE

LEGISLATURE.

BEGUN JANUARY SECOND AND ENDED MAY TWENTY-FOURTH, 1877,  
IN THE CITY OF ALBANY

ALBANY: WEED, PARSONS AND COMPANY, PUBLISHERS.



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1877.

## CHAP. 213.

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 eighth, eighteen hundred and sixty-one, and the various acts amendatory thereof or relating to the city of Rochester.

PASSED May 8, 1877; three-fifths being present.

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

Laws of  
1861,  
chap. 143,  
amended.

SECTION 1. Section six 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 eighth, eighteen hundred and sixty-one, as heretofore amended is hereby amended so as to read as follows:

Officers of  
city.

§ 6. The officers of said city shall be one mayor, one treasurer, two aldermen for each ward until the first Monday of April, eighteen hundred and seventy-seven, and one alderman from each ward thereafter; one police justice, justices of the peace so long as provided by the act organizing a municipal court in said city, two judges of said municipal court, one constable for each ward, one supervisor for each ward, three inspectors of election for each ward or election district, one commissioner of common 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 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. 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, 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

Section 127  
amended.

§ 2. Section one hundred and twenty-seven 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 eighth, eighteen hundred and sixty-one, as heretofore amended is hereby amended so as to read as follows:

Assess-  
ment rolls,  
delivery  
of, by  
board of  
supervis-  
ors to city  
treasurer.

§ 127. After the board of supervisors of the county of Monroe shall have equalized and corrected the assessment rolls of the city of Rochester and shall have inserted therein the county taxes levied and assessed by them, they shall annex to each roll a warrant under the hands and seals of the chairman and clerk of the board of supervisors, commanding the treasurer of the county of Monroe to collect from the several persons named in said rolls, the sums mentioned in the last column of each roll opposite their respective names, and authorizing the said treasurer, in case any person named in the roll shall refuse or neglect to pay his taxes before the fifteenth day of April next ensuing, to levy the same by distress and sale of goods and chattels of such person, and they shall, on or before the fifteenth day of January next ensuing, deliver the said rolls to the said county treasurer.

§ 3. Section one hundred and twenty-eight of said act is hereby amended so as to read as follows:

Section 128 amended.

§ 128. Immediately after receiving such rolls and warrants, the county treasurer shall give public notice by advertisement in all the daily newspapers printed in the city of Rochester, that all persons named in said rolls are required to pay their taxes to him at his office before the fifteenth day of April then next, and stating the amount to be added if payments shall be delayed; the said treasurer shall receive the amount of any tax levied on said assessment rolls during the month of January and before the first day of February then next without any addition thereto; if the same shall be paid on or after the first day of February and before the fifteenth 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 fifteenth day of February and before the fifteenth day of March then next an addition of two per cent; if paid on or after the fifteenth day of March then next, and before the first day of April an addition of three per cent; if paid on or after the first day of April and before the fifteenth day of April then next, an addition of four per cent.

Treasurer to give notice.

When to receive taxes.

Per cent-ages.

§ 4. Section one hundred and twenty-nine of said act is hereby amended so as to read as follows:

Section 129 amended.

§ 129. The said county treasurer shall also, immediately after the said first day of April, give public notice in two of the public newspapers of the said city to be published in such papers ten days, notifying all persons who shall have omitted to pay their taxes to pay the same to him at his office before the fifteenth day of said month, and that, in default thereof, a warrant will be issued for the collection thereof according to law.

Notice to be given after April 1st.

§ 5. Section one hundred and thirty of said act is hereby amended so as to read as follows:

Section 130 amended.

§ 130. It shall be the duty of the said county treasurer, upon all taxes so remaining unpaid on the fifteenth day of April next succeeding the completion of the said assessment rolls, to issue so many warrants as he shall deem proper, under his hand, each directed to any person whom he may see fit to appoint as collector of the taxes specified in such warrant, commanding such person as such collector to levy the amount of said tax, and an additional amount of five per cent, and also interest at the rate of twelve per cent per annum, from the preceding first day of April, besides the fees of such collector, by distress and sale of goods and chattels of the person against whom the said warrants shall be issued, or of any goods and chattels in his possession, wheresoever the same shall be found within said county, and to pay the same to the said county treasurer, and return such warrant within twenty days after the date thereof; and no claim of property to be made to such goods and chattels so found in the possession of the said party shall be available to prevent a sale. After the return of any warrant the county treasurer, if he deem expedient, may issue a second or subsequent warrant for the taxes still remaining unpaid with such percentage and interest and fees. Every collector shall hold his appointment during the pleasure of the county treasurer, and may at any time be removed or suspended by him, and the county treasurer and his sureties shall be liable for any collector and for all moneys that may be collected or received by him. No warrant shall be delivered to any collector until he shall have executed and deposited with the county treasurer a bond to the said treasurer, with two or more sureties approved by said treasurer, and acknowledged in the manner required

Collection of unpaid taxes.

for the recording of conveyances of real estate, and conditioned for the faithful performance of his duties as a collector of the taxes specified in such warrant, and for the faithful accounting and paying over to the treasurer all moneys that he may collect or receive under such warrant. If any collector shall fail to return any warrant issued to him, as herein required, or shall fail to pay over to said treasurer all money collected or received by him, or shall fail to render a full and true account thereof, the supreme court, or any justice thereof, shall have jurisdiction, on proof by affidavit or otherwise, summarily to enforce such return, payment or accounting or all, as the case may be, by attachment and proceedings thereon in the same manner as if such collector was a sheriff or officer of that court; the interest and additional percentage shall be paid to the county treasurer with the tax, and shall be added to the contingent fund of the said county. The said treasurer, immediately after receiving the bond of any collector, shall file the same in the office of the clerk of Monroe county, and the same shall be a lien upon the real estate of any person executing the same, situate in said county; said collectors shall have full power and authority to execute such warrants in any part of the county. If any such collector shall neglect and refuse to pay over any money collected by him, he shall be deemed guilty of a misdemeanor.

Section 133 amended.

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

Treasurer to report to comptroller account of unpaid taxes, etc.

§ 133. The county treasurer shall on or before the first day of June in each year, transmit to the comptroller of the state an account of the unpaid taxes on said rolls, verified by his affidavit, and shall also deposit a duplicate of such account and affidavit in the clerk's office of Monroe county, and all the provisions of the revised statutes relative to the duties of the county treasurer and of the comptroller, in respect to unpaid taxes, shall apply to the county taxes levied and assessed in the city of Rochester, so far as the same are not inconsistent with the provisions of this act.

Water bonds, exchanging of.

§ 7. The common council of said city shall have power to issue in exchange for the water works bonds of said city heretofore authorized and from time to time outstanding registered bonds of the said city for the same amount, payable at the same time and with the same rate of interest, under such regulations as the common council may prescribe, provided, however, that no new bond shall be signed by any officer until the bond for which it is to be exchanged shall be canceled with the certificate of the city treasurer or other city officer, and either deposited in his office or disposed of as the common council may direct.

Section 84 amended.

§ 8. Section eighty-four of said act is hereby amended so as to read as follows :

Accounts against city, auditing and allowing of.

§ 84. The common council shall examine, settle and allow all accounts chargeable against the city as well as its officers as of other persons, and shall have authority to direct the raising of such sums as shall be necessary to defray the same, and the contingent expenses of the city subject to the limitations and restrictions hereinafter contained; they shall have the power to borrow money in the month of January as in the next section provided, and also to borrow against any tax or assessment levied but not collected to an amount not exceeding the amount thereon uncollected, and to issue therefor the obligations of the city, payable in not more than one year with interest at not over seven per cent.

Payment of same, provision for.

Section 191 amended.

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

§ 191. Whenever the common council shall determine that the whole or any part of the expenses of any improvement not requiring the taking of any land by said city shall be defrayed by an assessment on the real estate to be benefited thereby, they shall declare the same by an entry in their minutes, and after ascertaining, as they think proper, the estimated expense of such improvement, they shall declare whether the whole or what portion thereof shall be assessed on such real estate, specifying the estimated expense and the portion of the city which they deem will be benefited by the improvement; when the estimate of such improvement shall exceed, in the aggregate, the sum of two thousand dollars, the expense of such improvement may be paid one-third in cash and the balance in the city's notes at one and two years with interest not exceeding seven per cent payable annually, and the city may get its notes discounted for a period not exceeding one year, with which to make such first payment. When such improvement is completed, the entire expenses thereof and connected therewith shall be ascertained by the city treasurer, together with the interest paid or to be paid on the orders or notes issued by the city to pay the expenses of such improvement, and interest on such sum shall be reckoned to the time the last installment of such assessment shall become due. The aggregate amount shall thereupon be reported to the common council, they to adjust and report to the assessors to be assessed upon the property benefited as hereinafter provided, and it shall fix the time and place when such assessors shall meet for that purpose. Persons so assessed who shall make any payment previous to the maturity of said last installment therein, shall be entitled to a discount at the rate of seven per cent; the common council may determine at the time of fixing such amount if the sum shall exceed two thousand dollars, that the tax payers may pay their assessments in not more than three equal payments, one-third within thirty days from the time that the treasurer shall advertise the same as hereinafter provided; one-third within one year, and one-third within two years from the confirmation of such roll. And in case the amount ascertained as aforesaid shall exceed ten thousand dollars, the common council may determine as aforesaid that the tax payers may pay their assessments in not more than five equal payments, one within thirty days from the time that the treasurer shall advertise the same, as hereinafter provided, and the balance within one, two, three and four years respectively, after such confirmation. The city treasurer may, in his discretion, issue his warrant for the collection of any part of such assessment that may have become due.

Improvements, expenses of, how paid.

§ 10. Section one hundred and ninety-two of said act is hereby amended so as to read as follows:

Section 192 amended.

§ 192. The common council shall thereupon make an order reciting the amount of expenses to be assessed as aforesaid, and the portion or part of the city on which the same is to be assessed, and directing the assessors, if they are not interested in any of the property so benefited, and not of kin to any person so interested, or if any two of them are not so interested or of kin, then directing such two to make an assessment upon all the lots and parcels of land within the portion or part so designated, of the amount of expense in proportion, as nearly as may be, to the advantage which each shall be deemed to receive by the making of such improvement, which order shall be certified by the clerk of the city, and delivered to some one of said assessors, together with a map or profile.

Ibid.

§ 11. Section two hundred and one of said act is hereby amended so as to read as follows:

Section 201 amended.

Unpaid assessments, collection of.

§ 201. If such assessment or any installment thereof shall not be paid when the same becomes due, the city treasurer may issue a warrant therefor with interest thereon, at the rate of twelve per cent per annum, besides collector's fees, and no notice shall be required to be given thereon, save by publication as aforesaid, except that before issuing any warrant fifteen days' notice shall be given every person assessed, by mail, or depositing in the post-office, directed to his residence if known, or by personal service.

Section 202 amended.

§ 12. Section two hundred and two of said act is hereby repealed.

Section 203 amended.

§ 13. Section two hundred and three of said act is hereby amended so as to read as follows :

Warrants, issuing of, etc.

§ 203. The city treasurer shall issue his warrant as aforesaid to a collector commanding him to collect the amount unpaid on such assessment, with interest and fees as aforesaid, and shall annex to such warrant either a list of such assessments taken from the assessment roll or the roll itself, which warrant shall be in the form, and the same proceedings shall be had as prescribed in the case of the collection of the general city taxes remaining unpaid, and all the provisions of the charter in relation to the collection of such general city taxes, the warrant therefor, the appointment, duties, fees, and security of such collectors, the responsibility of the city treasurer and his sureties for such collectors, the jurisdiction of the supreme court in case of delinquencies, shall be applicable to every such assessment. In case any assessment shall have become entirely due and the whole or any part thereof remains unpaid, and a warrant shall have been issued therefor, and returned unsatisfied, it shall be the duty of the city treasurer to report the same to the assessors. The assessors in preparing the next roll for general city taxes, shall insert therein against the property on which it was assessed, the amount of such unpaid assessment with interest thereon at twelve per cent, down to the first day of July thereafter. Such amount shall be in a separate column from the general city tax to be levied for the ensuing year. Upon the confirmation of such assessment roll such amount shall be added to the general city tax, and the entire amount shall be collected as hereinbefore provided in reference to general city taxes, and if such amount is not paid the lands shall be sold therefor as hereinbefore provided. When such tax is collected the treasurer shall credit the portion thereof which was due on any assessment to the proper fund. On assessments heretofore unpaid the property assessed may be sold for such assessments as heretofore provided by such charter.

Proceedings in case of inability to collect tax.

Section 205 amended.

§ 14. Section two hundred and five of said act is hereby amended so as to read as follows :

Erroneous payments may be sued for and recovered.

§ 205. When any such assessment shall be made upon or paid by any person, when by agreement or by law the same ought to be borne or paid by another person, it shall be lawful for the one so paying to sue for and recover of the person bound to pay the same, the amount so paid with interest. In case any tax or assessment shall have been levied upon any piece of land and before the same is paid, two or more persons shall have become the owners of portions thereof, the common council shall have the right to receive from the owner of any portion of such land his portion of the entire tax or assessment as the assessors shall certify to be just; and upon paying such amount, the property owned by him shall be free from the lien of such tax or assessment and the balance thereof shall be and remain a lien upon the residue of such property assessed. This provision shall apply to certificates of tax sales held by the city and not foreclosed.

Division of payments where lands are owned by two persons.

§ 15. Section two hundred and forty-six of said act is hereby amended so as to read as follows:

Section 246 amended.

§ 246. Warrants may be issued in criminal cases for the apprehending of offenders by any other justice of the said city; but they shall be returnable before the said police justice except in case of his illness, inability to serve, or absence from the city. Upon any criminal warrant duly issued by such police justice, or any person legally acting in his stead during his illness or absence, any officer authorized to serve the same may execute such warrant in any part of this state without further indorsement or warrant. In case of the illness of such police justice, or his inability to serve, or absence from the city, any justice of the peace or judge of the municipal court shall have the same power in his stead to try any case for violation of a city ordinance as is possessed by said police justice.

Warrants for apprehension of criminals, issuing of, etc.

§ 16. Section fifty-nine of the said act is hereby amended by adding at the end thereof as follows:

Section 59 amended.

The commissioners of excise of the said city shall make a report in writing every month to the common council, signed by such commissioners and verified by their oath, and shall deliver such report so verified to the city clerk before the last day of the month, which report shall contain a full, true and detailed statement of all moneys received by them, and not before reported as hereby required, with the date and amount of each and every item of money received, and the name and place of business of each and every person licensed, (not before reported as aforesaid) and the amount charged in each case. With every such report shall be the city treasurer's receipt showing that the full amount of moneys so reported has been paid to him. A like verified report shall be made and bear date on the Saturday next before the first Monday of May in each year, and shall be delivered to the city clerk, with the treasurer's receipt as aforesaid, within two days thereafter.

Commissioners of excise to report monthly.

Treasurer's receipt to accompany. Annual report, etc.

§ 17. All acts or parts of acts and all laws and ordinances inconsistent with this act are hereby repealed.

Acts inconsistent repealed.

§ 18. This act shall take effect immediately.

## CHAP. 214.

AN ACT in relation to the fire department of the city of Newburgh.

PASSED May 3, 1877; three-fifths being present.

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

SECTION 1. The corporate body heretofore known under the corporate name of the Fire Department of the village of Newburgh, shall be hereafter known by the corporate name of the Fire Department of the city of Newburgh.

Change of name.

§ 2. All the provisions of the act entitled "An act to incorporate the Fire Department of the village of Newburgh," passed July one, eighteen hundred and fifty-one, shall remain in force, except as herein otherwise provided, and shall extend and apply to the fire department of the city of Newburgh.

Portions of act of 1851 applicable.