

LAWS

OF THE

STATE OF NEW-YORK,

PASSED AT THE

FIFTY-EIGHTH SESSION

OF THE

LEGISLATURE,

BEGUN AND HELD AT THE CITY OF ALBANY,

THE SIXTH DAY OF JANUARY, 1835.



ALBANY:

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1835.

CHAP. 226.

AN ACT to enable the mayor, recorder, aldermen and commonalty of the city of Schenectady, to supply the said city with water for the extinguishment of fires and other purposes.

Passed May 4, 1835.

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

§ 1. The mayor, recorder, aldermen and commonalty of the city of Schenectady, shall be capable of purchasing, holding and conveying any estate, real or personal, which may be necessary and required for the purpose of more certainly and efficiently supplying the said city with water for the extinguishment of fires and other purposes, and may by themselves, or by their agents, servants, engineer or engineers, employed by them for that purpose, take possession of any lands or waters, and use the whole or any part of any fountain, springs or streams of water; and may erect on their margins or elsewhere, all such reservoir or reservoirs, or buildings, and construct such works and machinery as may be necessary for the purposes aforesaid; and may enter upon any lands through which they may deem it to be proper and necessary to convey the water of such fountains, springs, streams and reservoirs, or through which to carry or lay any conduit, or to construct any reservoir or reservoirs, or erect any other devices for the purpose of supplying the said city with water as aforesaid, and to lay out and survey so much ground for the purposes aforesaid, as they may deem to be necessary; and it shall and may be lawful for the said mayor, recorder, aldermen and commonalty, to contract and agree with the owner or owners or occupant of the said lands and waters, severally so laid out and surveyed, through which the said waters and conduits are intended to be carried or laid, and the reservoirs and other devices erected and placed, for the purchase thereof, if they can agree with the occupants or owners of such lands and waters; but in case of disagreement, or in case any owner or occupant of such lands or waters shall be a feme covert, under age, non compos mentis, out of the state, or unknown, the lands and waters intended to be taken for the purposes aforesaid, shall be appraised in the manner hereinafter directed.

§ 2. In case the said mayor, recorder, aldermen and commonalty shall not agree with the owners or occupants of the waters or lands, through which such waters are intended to be carried, and works erected, for the purchase thereof, they shall, previous to any appraisement for ascertaining

the value thereof, and of the damages to be assessed and paid, cause a survey to be made of the tract or tracts of lands and waters, and the direction which it is intended such waters, reservoirs and conduits shall run and be erected, and of the ground deemed necessary and requisite for conveying the said waters from the said fountains, springs, streams, or reservoirs, and for laying conduits, reservoirs and other devices, in the field book of which survey and map shall be specified and distinguished so much of the lands of each of the owners or occupants as it may be intended to appropriate to the works aforesaid, and the quantity thereof, as nearly as may be, and shall exhibit such field book and map or maps to the chancellor of this state, who shall certify such field book or books, map or maps under his hand, and cause the same to be filed in the office of the clerk of the county of Schenectady, there to remain a public record; and the said chancellor is then hereby authorized and required to appoint three competent and discreet commissioners, who shall, under the directions of the chancellor, appraise and determine the damages and recompense which each of the owners or occupants of such lands and waters may sustain or be entitled to receive, and report the same under their hand, or the hands of any two of them, to the said chancellor, who shall examine the same and hear the parties thereto, if he shall deem it to be expedient, and increase or diminish the damages or recompense, if he shall be satisfied that injustice has been done; and upon proof being made to the chancellor of the payment within sixty days after his determination of the amount of such damages or recompense, to the owner, or the owners or occupants respectively, or upon proof to the said chancellor of the depositing to the credit of such owner or occupant the amount of such damage and recompense as may have been awarded to him or them, in such incorporated institution as the chancellor shall direct, and the payment of all expenses, the said chancellor shall make an order, vesting in the said mayor, recorder, aldermen and commonalty of the said city of Schenectady, the lands, waters and property required and so designated on such maps and field books; and the said chancellor shall from time to time, make such further orders and decrees in relation to the premises as may be necessary for carrying into effect the intentions of this act, and securing the just rights of all parties, and for procuring for the said city a full and adequate supply of water; he shall also supply vacancies occasioned by the death, declining to serve, or absence from the state, of any of the commissioners for the appraisal of damages, by the appointment of other commissioner or commissioners in his or their stead; and also order new surveys, maps and field books, or

their alteration or amendment, where it appears that errors or omissions have occurred.

§ 3. In order that the provisions of this act may be carried promptly into effect, it shall be lawful for the said mayor, recorder, aldermen and commonalty, to constitute a fund, to be denominated "The Water Works Fund," which shall consist of all such donations to it as may be made by individuals or corporate bodies, and appropriations by the common council of the said city, including the lands, waters, and water works to which the said city may become entitled under the provisions of this act; and to borrow moneys on the faith and credit of said city, so that the aggregate of the debt of the city, on account of the said fund, shall not at any time exceed the sum of seventy-five thousand dollars; and to execute therefor, to the lender or lenders, a bond or bonds, under the common seal of the said city, countersigned by the mayor; and to secure to the lender or lenders the punctual payment of the interest and redemption of the principal, at such time or times, place or places as may be agreed upon with the lenders, or determined by the common council of said city, may pledge, hypothecate, or mortgage, any estate, real or personal, belonging to the said city, or to which it may become entitled under the provisions of this act; or instead of making and executing such bonds or other sureties as aforesaid, it shall be lawful for the said mayor, recorder, aldermen and commonalty of said city, for the moneys to be borrowed for the purposes aforesaid, to make and issue to the lender or lenders, transferable certificates of stock in sums not less than one hundred dollars each, and not exceeding in the aggregate the said sum of seventy-five thousand dollars; the said certificates to be made in such form, and the interest and principal to be made payable at such time or times, place or places, and with such pledges, hypothecations, mortgages, or securities for the payment of the interest, and redemption of the principal sums borrowed as may be agreed upon with the lender or lenders, or as the common council of the said city may devise, prescribe and consider to be most beneficial to the interests of the said city.

Water works fund to be constituted.

§ 4. It shall be lawful for the mayor, recorder, aldermen and commonalty of the said city, in common council convened, to ordain and prescribe such rules and regulations as may be found to be necessary, in relation to the introduction, distribution and use of the waters, and to use, lease or dispose of the same waters at their discretion; and to exact and receive such rents or compensation for the use of the said waters when introduced, as may be agreed upon by such individuals or corporations to whom it may be granted; also to employ and appoint and to remove and discharge at their pleasure, all such laborers, engineers, overseers or

Rules for the distribution of the water.

agents as may be employed, required or appointed, as well in the construction of the works contemplated by this act, as in the management of the moneys and funds to be appropriated and applied to this object.

Water may
be conducted
through
streets, &c.

§ 5. It shall be lawful for the said mayor, recorder, aldermen and commonalty, to lead or conduct the waters for supplying the said city from any of the fountains, springs, or streams aforesaid, to or from any reservoir or reservoirs, through any street, alley or public highway of said city; and to lay their conduits below the surface of any such street, alley or public highway, putting such street, alley or public highway in as good condition as they were before such conduits were laid therein; and further, any person who shall wilfully injure, damage or destroy any of said conduits, reservoirs, hydrants or other devices appertaining to the said water works, or shall waste the water supplied or furnished to him or them, shall be deemed guilty of a public misdemeanor; and upon conviction thereof by indictment or otherwise, shall be punished by fine or imprisonment, or both, at the discretion of the court before whom such conviction shall be had, and shall moreover be liable to pay treble the damages sustained, to be recovered with costs, in any action to be prosecuted therefor, by and in the name of the mayor, recorder, aldermen and commonalty of said city, in any court having jurisdiction thereof, in which action it shall not be an objection to any person as a witness or juror, that such person is a freeholder or taxable inhabitant of said city.

Accounts
how to be
kept.

§ 6. It shall be the duty of the said mayor, recorder, aldermen and commonalty of said city, to cause distinct accounts to be opened and kept of the said water works fund, separate and apart from all other accounts and concerns of said city, showing the moneys which may be given, appropriated or borrowed; also of the disbursements for the construction of the said water works, and for their maintenance, repairs, superintendence and management; to cause all donations, appropriations and moneys borrowed as aforesaid, to be faithfully and exclusively applied to the construction and maintenance of the said works; and to cause the nett income arising from the same to be applied exclusively to the payment of the interest and liquidation and redemption of the principal sums which may be borrowed in pursuance of this act, and to no other purpose whatsoever; but nothing in this act contained shall be construed to prevent the investment of moneys belonging to the said fund not required for the payment of interest, in such manner as to prevent a loss of interest; and it shall be lawful for any incorporated company to make the loans authorized by this act, if they shall consider it to be safe and prudent to do so.

§ 7. It shall not be lawful for the said mayor, recorder, Erie canal. aldermen and commonalty to take possession of, or in any manner whatever to interfere or meddle with the Erie canal, or any of the waters used for the purpose of said canal, or any of the land or property of this state.

§ 8. This act shall take effect from the passage thereof. Act to take effect.

§ 9. The legislature may hereafter alter, modify or repeal this act. Right to repeal.

CHAP. 227.

AN ACT to authorize the building of two bridges over the Caders Kill in the town of Catskill, in the county of Greene.

Passed May 5, 1835.

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

§ 1. John F. Crawford and Jacob Van Gelden of the town of Catskill, in the county of Greene, are hereby appointed commissioners to superintend the building of two certain bridges over the Caders Kill in the town of Catskill in said county, one of which bridges to be located at or near the place where the last bridge stood, a little above the High fall, near the tannery of Trumpbour and Crawford. The second of which bridges to be located at or near the place where the last bridge stood, below Jacob Van Gelden's, with full powers to contract for materials and workmanship of the same; and in case of the death or refusal to serve of the said commissioners, or either of them, it shall be lawful for the supervisor of said town of Catskill, and he is hereby required to appoint a person or persons in the place of him or them so dying or refusing to serve as aforesaid. Commissioners to superintend the building of bridges.

§ 2. The supervisors of the county of Greene, at their next annual meeting, shall cause to be levied and collected, from the inhabitants of the town of Catskill in said county, the sum of eight hundred dollars, for the purpose of building the aforesaid two bridges; and the collector of said town shall pay the sum levied upon said town when collected, to the said commissioners. Money to be raised by tax.

§ 3. It shall be the duty of the commissioners so appointed, or to be appointed as aforesaid, before they proceed in the discharge of their trust aforesaid; to execute each a separate bond, with at least one sufficient surety, to the supervisor of the town of Catskill in said county of Greene, in the penal sum of sixteen hundred dollars, conditioned for the faithful discharge of their duties under this act. Commissioners to give bond.