

L A W S
OF THE
STATE OF NEW YORK,

PASSED AT THE

NINETY-FOURTH SESSION

OF THE

LEGISLATURE,

BEGUN JANUARY THIRD, AND ENDED APRIL TWENTY-FIRST, 1871,
IN THE CITY OF ALBANY.

VOL. I.



ALBANY:
THE ARGUS COMPANY, PRINTERS.
1871.

Chap. 271.

AN ACT to amend an act to incorporate the village of Warwick, passed April fifteenth, eighteen hundred and sixty-seven, so as to enable the inhabitants of said village to obtain a supply of water for public and private uses.

Passed April 4, 1871; three-fifths being present.

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

SECTION 1. Thomas Burt, James H. Holly and William H. Chardevoyne, and their successors in office, are hereby constituted a body corporate by the name of the "Water Commissioners of the Village of Warwick," and in that name may sue and be sued, complain and defend in any court.

Water
commis-
sioners.

§ 2. Within twenty days after the passage of this act, the persons named in the foregoing section shall meet at the office of the village clerk of said village, and shall then and there determine, by lot, the order in which their term of office shall expire; and the determination so made shall be certified to by said clerk to the trustees of said village. If said commissioners shall neglect or refuse to assemble and determine as aforesaid, the said trustees shall, within twenty days thereafter, make such determination. The term of office of the commissioner first going out of office shall expire on the first Tuesday of May, eighteen hundred and seventy-two; that of the second, on the first Tuesday of May, eighteen hundred and seventy-three; that of the third, on the first Tuesday of May, eighteen hundred and seventy-four.

Classifi-
cation of
terms.

§ 3. On the first Tuesday in May, eighteen hundred and seventy-two, and upon the same day in each year thereafter, an election shall be held for the purpose of electing a suitable person to fill the place of the commissioner whose term of office shall expire on that day, and to fill any vacancy that may have occurred, and public notice of such election shall be given by said

Election
of com-
mission-
ers.

Notice
thereof.

How conducted.	trustees, in the same manner and at the same time that notice for the election of other village officers is given, and such election shall be conducted in all respects as election for other officers, and the term of office for each commissioner (except one chosen to fill a vacancy) shall be the period of three years, and the term of one elected to fill a vacancy shall be the unexpired term of the person whose place he was elected to fill. All commissioners shall be electors of said village, and shall continue in office until a successor shall be elected and shall qualify. In case of failure to hold the election at the time aforesaid, said trustees shall immediately thereafter name a day for the holding of an election, giving the like notice of such time as above provided, and such election shall be conducted in all respects as provided for the election of the first Tuesday of May. In case a vacancy in office by death, removal or resignation, or any other inability to serve, the commissioners then duly in office shall fill such vacancy by appointment, and the person appointed shall hold his office until the next annual election and until another shall be qualified to fill his place.
Term of office. Qualifications.	
Special election, when to be held.	
Vacancies, how filled.	
Oaths or office.	<p>§ 4. Every commissioner, whether elected or appointed, shall, before entering upon his duties of office and within ten days after notice of election or appointment, take and file with said village clerk the constitutional oath of this State, and shall also enter into a bond to said village, with sureties to be approved by said trustees, conditioned for the faithful performance of his duties as such commissioner.</p>
Official bonds.	
Business quorum.	<p>§ 5. A majority of said commissioners shall constitute a quorum for the transaction of any business of said board; and such commissioners shall appoint a clerk at such compensation as they shall deem just, subject to removal at their discretion.</p>
Appointment of clerk.	
Commissioners to employ engineers, &c.	<p>§ 6. Said commissioners are hereby authorized and empowered, and it shall be their duty to examine and consider all matters relative to supplying the village of Warwick with pure and wholesome water; to employ engineers, surveyors, and such other persons as may be necessary for that purpose, and they shall adopt such plans, as in their opinion may be most feasible for pro-</p>
Adoption of plans, &c.	

eruing such supply of water, and which shall embrace proper distribution pipes and supplies for all streets and places, where, in their opinion, it shall be of interest to the village; to contract for and purchase, and take by deed or other,* under investments* seal, in the name of said village, all lands, tenements, hereditaments, rights or privileges whatever, and situate at any place within the town of Warwick, which may be required for the purpose; to make contracts for labor and materials for the general purposes contemplated by this act; to make use of the soil or ground under any railroad, street, high or private way, for the purposes of laying said pipes or aqueduct in such manner as least to obstruct or impede travel thereon, causing all damages done thereto to be repaired, and all damages sustained by any person or corporation in consequence of the interruption of travel to be paid to such person or corporation; and such rights shall be continuous for the purpose of repairing or relaying pipes upon the like conditions; to make and establish hydrants; to regulate the distribution and use of said water, and to establish the prices to be paid therefor; to collect all water rents and pay over the same to the village treasurer; to audit, allow, and draw orders on the treasurer for the payment of all claims against said village on account of said water-works, and generally to attend to the construction, supervision, care and management of said water-works; and to exercise any additional powers that the trustees may authorize; and said commissioners and their respective employees shall be authorized at all times to enter into any building or place where water is used from supply pipes, to examine as to the water, quantity of water used, and manner of using it; also to enter upon any land or water for the purpose of making surveys, and to agree with the owner of property, real and personal, which may be required for the purposes of this act, as to the amount of compensation to be paid such owner.

Purchase of real estate.

Contracts for labor and materials. Entry upon lands, streets, &c.

Distribution of water. Water rents.

Audit and payment of claims.

Additional powers. Entry of buildings to examine as to use of water.

Entry upon lands and waters to make surveys, &c.

Proceedings to acquire property in case of disagreement.

§ 7. In case of disagreement between the commissioners and the owner of any property which may be required for the purposes aforesaid, or affected by any operation connected therewith as to the amount to be

*So in the original.

paid such owner, or in case such owner shall be an infant or married woman, or insane, or absent from this State, or unknown, or the owner of a contingent or uncertain interest, the Supreme Court, at any general term, within the second judicial district, shall, upon the application of either party, after ten days' personal notice, or where such notice cannot be served within this State, after three weeks' notice of such application, published in all the weekly newspapers in said village, nominate and appoint three disinterested persons, referees for the whole or each case of disagreement, to examine such property, who, upon being duly sworn, faithfully and impartially to discharge their duties, shall estimate and report to said court, at general term in said district for confirmation, the several sums which will be a just compensation to such owners for the appropriation to the purposes of this act of any property which may be so required, or for the title or use of any such property. Such referees may examine witnesses upon hearings before them, and all evidence taken before them shall accompany said report. In case said report shall not be confirmed by said court, as to one or more of such respective owners, the said court shall upon the same notices before provided, appoint other three disinterested persons as referees, who shall proceed in all respects as above specified, as to referees, and the report of such new referees shall be treated as final, and shall be confirmed by the court.

Appoint-
ment of
referees.

Referees
to be
sworn.

To report
to court.

May ex-
amine
witnesses.

New
referees,
when to
be ap-
pointed.

Payment
or deposit
of award
on confir-
mation of
report.

Village to
acquire
fee.

Commis-
sioners
may
borrow
money.

§ 8. Whenever any report of referees shall have been confirmed by said Supreme Court, the said commissioners may deposit as said court may direct, or pay to said owner or to such person or persons as the court may direct, the sum mentioned in said report in full compensation for the property so required, and thereupon the said village shall become seized in fee of the property so acquired, and said commissioners and said village shall be discharged from all claim by reason of any such appropriation or use.

§ 9. The said commissioners shall have power and it shall be their duty to borrow, from time to time, upon the credit of the village of Warwick, a sum not exceeding twenty-five thousand dollars, upon such terms of

credit not exceeding twenty years, and at a rate of interest not exceeding seven per cent per annum, as shall seem to them for the best interest of said village, and to secure said loan, said commissioners are authorized to make, execute and deliver bonds, certificates and other obligations, not to exceed the sum of twenty-five thousand dollars, which shall be signed by them, as such commissioners, which said bonds, certificates and other obligations, shall be made payable in such respective amounts and at such respective times (after five years shall have expired after the issue of such bonds, certificates, or other obligations) as such commissioners may deem best, and the same and the interest thereon shall be a valid liability against said village, and the credit of said village is pledged for the payment of the same, and the said money so borrowed shall be appropriated by said commissioners to supplying said village with water agreeably with the provisions of this act.

Rate of interest.

Village bonds to issue.

How executed, and when payable.

To be a liability against village.

Moneys, how applied.

§ 10. No commissioner shall be directly or indirectly interested in any contract relative to the work, or materials for the work, nor shall he receive any more compensation for his services than received by the village trustees, except for necessary expenses and disbursements paid by him, and such compensation for services and clerk hire shall be paid from the contingent fund of the village of Warwick.

Commissioners not to be interested.

To receive no salary.

§ 11. The connecting or supply pipes leading from buildings or yards to the distribution pipes, shall be inserted and kept in repair at the expense of the owners or occupants of the building or yard, and shall not be inserted or connected with the main pipe until a permit therefor shall be obtained from said commissioners or other person having charge thereof, and all such connecting or supply pipes shall be constructed in the same manner directed by said commissioners or persons in charge.

Supply pipes, how kept in repair.

Permits to connect with main pipe.

§ 12. The entire annual receipts for water rents, after deducting therefrom such sums as may be necessary to defray the expenses of repair of said water-works and of extending the same, and other necessary expenses, shall be applied toward the payment of the interest on the loans.

Receipts for water rents, how applied.

Tax to pay deficiencies over water rents and interest.

How levied and collected.

Annual tax to create a sinking fund.

Village treasurer to be treasurer of water board.

His official bond.

Compensation.

Willful injury done to water works, how punished.

§ 13. In case the entire annual receipts for water rents, after deducting as in said section twelve provided, shall in any year or any respective years, not be sufficient to pay the interest for that respective year on said loans, it shall be the duty of the trustees of said village, and they are hereby directed to cause such deficiency to be assessed, levied and collected from the taxable property of said village, at the same time and in the same manner as other contingent expenses of said village are assessed, levied and collected, and with such other contingent expenses, and the same shall be applied to the payment of such interest.

§ 14. The said trustees shall annually at the same time with the annual assessment of contingent expenses of said village, and in the same manner as other contingent expenses of said village are assessed, levied and collected, cause to be assessed, levied and collected from taxable property of said village, the sum of one thousand dollars, which amount when collected, shall be paid to said commissioners for the purpose of creating a sinking fund for the payment of said principal.

§ 15. The village treasurer shall be the treasurer of the board of water commissioners, who shall, before he enter upon his duties as such, execute and deliver to the village trustees a bond of sufficient amount and with sureties as shall be approved by said trustees, conditioned that he will faithfully perform his duties as such treasurer. He shall keep all money received from any source whatever on account of said water-works a separate and distinct fund subject to draft from said water commissioners. He shall receive such additional compensation as the trustees may deem just.

§ 16. If any person shall willfully and maliciously corrupt the water in any reservoir, hydrant, aqueduct, pipe, or other portion of said water-works, or destroy or injure any portion of such works, or any materials or sources of supply, or property used or designed to be used in connection therewith, he shall forfeit and pay to said village treble damages in an action of trespass brought by said village, and such person, on conviction thereof before any court having jurisdiction of the offense, shall be punished by fine, not exceeding

three hundred dollars, or by imprisonment, not exceeding one year, or by both such fine and imprisonment.

§ 17. Any claim of said village for the use of water shall be a lien upon the house, tenement or lot, wherein or in connection with which said water was used by the owner or occupier thereof, and said lien may be foreclosed in any court of record in the same manner as a mortgage is foreclosed according to the rules of practice of such court, or the laws of this State.

Claims for water rents to be a lien upon houses and lots. How foreclosed.

§ 18. The said commissioners shall annually on the first day of March in each year, deliver to said village trustees a detailed statement of all their accounts, a general statement of all their work and condition of their affairs and state of finances, including a particular statement of any deficiency as to the water rents, as to meeting the interest upon the principal sum borrowed, as in the previous section hereinbefore referred to, and all books and papers of every kind and description kept by said commissioners, upon which are entries of their transactions as such, shall at all times be subject to inspection by said trustees.

Annual report to village trustees.

Books to be open to inspection.

§ 19. All judgments against said commissioners in their name of office, and judgments against them when the transaction upon which the action was brought, shall have been in the performance of their duties as commissioners, shall be deemed judgments against said village, and shall not be enforced against the individual property of either of the said commissioners.

Judgments against commissioners, to be deemed against village.

§ 20. A violation of any of the provisions of this act, by any of such commissioners shall be deemed a misdemeanor, and upon conviction thereof of such commissioner his term of office shall be deemed vacant.

Penalty for violation of act, by commissioners.

§ 21. As soon after the passage of this act as possible, a meeting of the electors of said village liable to be assessed for any special tax as provided for in section eight of the village charter, shall be called by the trustee of said village upon notice published two weeks in the village newspaper or newspapers, at which the question shall be submitted whether the taxes in this act, authorized for the purpose aforesaid, shall be levied and collected from the village as in this act provided. The trustees shall designate in said notice some convenient

Village trustees to call tax meeting.

Notice thereof.

Tax payers to vote upon question of tax.

Election, how conducted.

Commissioners not to proceed unless after favorable vote.

Form of ballots.

place in said village for holding the polls of said election, and shall appoint inspectors of the polls of said election in the same manner as at the charter election in said village. The said commissioners shall not proceed with their duties under this act unless the majority of the voters voting at such meeting shall vote in favor of such taxes. Said vote shall be by ballot and there shall be written or printed on the ballots for those in favor of the taxes, "For the taxes," and on the ballots for those opposed, "Against the taxes."

§ 22. Section one of title four of an act to incorporate the village of Warwick, passed April fifteenth, eighteen hundred and sixty-seven, is hereby amended to read as follows:

Trustees may raise tax annually.

Limitation.

Tax meeting may vote additional tax.

§ 1. The trustees are authorized and empowered to raise money by tax, to be assessed upon the real estate and personal property within the bounds of the said corporation, and to be collected from the several owners and occupants thereof, for the purchase of any real or personal property for the use of said village, and to defray the ordinary and contingent expenses of the said corporation, but no tax shall be levied or collected to an amount *not** exceeding one thousand dollars in any one year, except as in this act is hereinafter provided, until the same shall be authorized by a vote of a majority of the taxable inhabitants of said village, qualified to vote under this act, present at any annual election or meeting, or at any special meeting duly called for that purpose.

Repeal.

§ 23. All acts and parts of acts inconsistent with the foregoing are hereby repealed.

§ 24. This act shall take effect immediately.

* So in the original.