

L A W S

OF THE

STATE OF NEW YORK,

PASSED AT THE

NINETY-SEVENTH SESSION

OF THE

LEGISLATURE.

BEGUN JANUARY SIXTH AND ENDED APRIL THIRTIETH, 1874,  
IN THE CITY OF ALBANY.



ALBANY:  
HUGH J. HASTINGS, PUBLISHER.  
1874.

Chap. 557.

AN ACT to amend an act entitled "An act to provide for a supply of water in the city of Yonkers," passed February twenty-eighth, eighteen hundred and seventy-three.

Passed May 22, 1874; three-fifths being present.

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

SECTION 1. Section ten of the act entitled "An act to provide for a supply of water in the city of Yonkers," passed February twenty-eighth, eighteen hundred and seventy-three, is hereby amended so as to read as follows:

§ 10. In case of disagreement between the said board of water 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 paid to such owner, or in case the said commissioners shall elect to have the damages to be sustained by or moneys to be paid to the owner of any land or privilege to be taken, or person or corporation interested in any stream of water to be diverted for the purposes of this act, assessed and ascertained by commissioners as herein provided, without first endeavoring to agree with such owner, person or corporation, 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 special term within the second judicial district, shall, on the application of said board of water commissioners, after three weeks' notice of such application, published in the official city newspapers of said city once in each week, nominate and appoint three disinterested persons commissioners of estimate for the whole or each, or any case of disagreement, or in which property, rights and interests are to be taken, to examine such property, who, upon being duly sworn faithfully and impartially to discharge their duties as such commissioners, shall estimate and report to said court at special term in said district, for confirmation, the several sums which, in their opinion, will be a just compensation to such owners or persons or corporation respectively, for the appropriation to such owners of this act of any property which may be required, or for the use or title of any such property, or for taking and diverting any stream of water, pond or spring. Such commissioners of estimate shall file their oath of office in the office of the board of water commissioners, and give public notice of their first meeting by publishing a notice thereof in the official city newspapers published in said city, once a week for two weeks successively, before such meeting, and may then adjourn from time to time without further notice, and may examine witnesses on hearings before them, which testimony shall be reduced to writing and subscribed by the witness, and for such purpose such commissioners, or any of them, shall have power to administer oaths. All evidence taken before them shall accompany their report. The report of said commissioners of estimate, when completed, shall be deposited in the office of the board of water commissioners for public inspection. The said commissioners of estimate shall then cause a notice to be published in the official city newspapers that the report has been so completed and deposited for examination by the

When supreme court shall appoint commissioners of estimate.

Notice of application.

Commissioners to be sworn. To report.

Oath of office to be filed.

Notice of first meeting.

Proceedings.

Report to be deposited for examination.

Notice.

parties interested, and that they will meet at a time and place therein to be specified, not less than ten days from the first publication of such notice, to review their report. During that time the said report may be examined free of expense by all interested, and at the time and place so specified any such person may offer objections in writing to the said report. The said commissioners shall thereupon, or as soon as conveniently may be thereafter, review their said report, and correct the same if they shall deem proper, and shall then file the same in the office of the board of water commissioners. And the said board of water commissioners may, after the final completion and filing of said report, after publishing a notice for three successive weeks in the official city newspapers published in said city of their intention so to do, present the same for confirmation to the Supreme Court at any special term thereof held in the second judicial district. No other papers shall be read by either party upon the application to confirm such report than the evidence and objections taken before said commissioners, which shall accompany such report. Only such persons who shall have filed written objections shall be heard upon such application. The court may confirm the said report in whole or in part. In case such report shall not be confirmed by said court, as to one or more or all of such owners or parties interested, the said court shall, without notice, appoint the same or three other disinterested persons as commissioners of estimate, who shall proceed with reference to the owners or parties interested as to which such report shall not be confirmed in all respects as above specified, and all the provisions of this section shall apply to such new report and the confirmation thereof.

§ 2. Section eleven of said act is hereby amended so as to read as follows:

§ 11. Before making application for the appointment of any such commissioners of estimate, and before publishing any notice of such application, the said board of water commissioners shall, by their president, make and execute a certificate of their intended application, in which shall be clearly stated and set out the pieces, parcels or lots of land, rights, privileges, stream or streams of water, ponds or springs, or other property which they shall elect to take, or which may be affected by the proceedings of said court or the commissioners of estimate by it to be appointed under such application, and shall deposit the same, together with a map showing the land to be taken, in the office of the board of water commissioners for public inspection, where they shall remain for two weeks after the first publication of such notice of application, and such certificate and map shall constitute a part of the report to the court by the commissioners of estimate. Each certificate and map and each application may embrace one or as many different pieces of lands, interests or property as the said board of water commissioners shall elect, and may affect the rights of one or as many persons or corporations as said board shall elect, and the said board may make as many separate and different certificates and maps as they shall deem proper.

§ 3. Section twelve of said act is hereby amended so as to read as follows:

§ 12. In case any piece or parcel of land shall be abandoned or discontinued by said board of water commissioners, the said board shall cause a notice to be published, once a week for three weeks, in the official city newspapers in said city, of their intention to abandon or discontinue such land, and of the time and place where and when it will sell the same together with the improvements thereon; and shall sell said land and the improvements thereon at auction to the highest bid.

Objections.

Review of report.

Presenting report for confirmation.

Proceedings if report be not confirmed.

Certificate of intended application, &c.

Abandoned land.

Notice of abandonment and sale.

Sale.

der, in one or more parcels, as said board of water commissioners shall elect, and the city of Yonkers shall convey such land so purchased at such auction sale to the purchaser or purchasers thereof. The moneys so derived from such sale or sales shall go to the sinking fund for the retirement of the water bonds hereinafter provided for.

Convey-  
ance.

Disposi-  
tion of  
proceeds.

§ 4 Section fifteen of said act is hereby amended so as to read as follows :

§ 15. Whenever any report of the commissioners of estimate shall have been confirmed by said court, the said water commissioners shall deposit as the said court may direct, or pay over to the owner, or such person as the court may designate, the sum mentioned, in said report, in full compensation for the property so required ; and thereupon the said city shall become seized in fee of such property, and said commissioners and said city shall be discharged from all claim by reason of any such appropriation or use.

Water  
commis-  
sioners to  
deposit or  
pay to  
owners.

§ 5. Section sixteen of said act is hereby amended so as to read as follows :

§ 16. The common council of the city of Yonkers shall issue, as required by said board of water commissioners, the bonds of said city, to be known as water bonds, for a sum not exceeding six hundred thousand dollars, which shall bear an interest not exceeding seven per cent. per annum, payable semi-annually on the first day of April and October in each year. Said bonds shall be payable in sums of fifty thousand dollars in each year, commencing thirty years from April first, eighteen hundred and seventy-three, which bonds shall be signed by the mayor and city clerk of the city of Yonkers ; and a record thereof shall be kept in the city clerk's office in said city, and the bonds so issued shall be delivered to said water commissioners, to be sold by them at not less than par or nominal value, and the proceeds applied only to carry into effect the provisions of this act. Said bonds before being negotiable shall be countersigned by the president of the water board.

Common  
council to  
issue  
bonds.

Interest.

Bonds,  
when pay-  
able.

How sign-  
ed, re-  
cord, &c.

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

§ 17. Said board of water commissioners shall have power to make all necessary contracts for labor and materials in the construction of the work and all things pertaining thereto, which contracts shall be in writing, signed by a majority of the water commissioners, and of which three originals executed by the parties to be numbered with the same number ; one of which shall be given to the contractor, one filed with the clerk of the city of Yonkers, and one retained by the board of water commissioners ; three weeks' public notice shall be given in the official city newspapers published in said city as the commissioners shall direct, of the time and places at which sealed proposals will be received for entering into contracts ; and the board of water commissioners shall have full discretion as to the acceptance or rejection of any and all proposals, and in case any materials or labor shall then remain uncontracted for, the like notice for sealed proposals and the like proceedings may be had as above provided, and so from time to time as said commissioners may desire, to contract for work or materials ; and every person who shall enter into any contract for the supply of materials, or the performance of any work, shall give satisfactory security to said water commissioners for the faithful performance of his contract according to its terms. The said board shall have power to purchase materials and procure work to be done without contracting therefor, the cost of which shall not exceed five hundred dollars in any one case.

Water  
commis-  
sioners  
may make  
contracts.

Sealed  
proposals,  
notice of.

Security.

§ 7. Section nineteen of said act is hereby amended so as to read as follows :

Right to  
use street,  
&c.

§ 19. The said board of water commissioners, and all persons acting under their authority and direction, shall have the right to enter and use the ground or soil under any street, avenue, highway, road, square, or any other public ground within the county of Westchester, for the purpose of introducing water into and through all or any portions of the city of Yonkers, and in case of any such use the said board shall cause the surface of such street, avenue or highway, road, square, or other public ground, to be relaid and restored to its usual state, and all damages done thereto to be repaired : and such right shall be continuous, for the purpose of relaying or repairing water pipes.

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

Water  
rents.

§ 20. The said board of water commissioners shall, after the introduction of water, for general use, establish a scale of rents, to be charged and paid to the said board of water commissioners from time to time, either in advance or at such time or times as the water commissioners shall prescribe, for the use and supply of water, to be called water-rents, on all classes of buildings in said city in which water shall be used ; and in the establishment of such scale of rents, said board shall have reference to the ordinary or extraordinary uses of said water for dwellings, stores, shops, hotels, factories, livery stables, wharves, barns, and all other buildings, establishments and trades, yards, number of families or occupants, or consumption of water for useful or ornamental purposes, as near as may be practicable, and from time to time either modify, amend, increase or diminish such rents. And such board of water commissioners may make and establish ordinances and regulations for enforcing the collection of water-rents and manner of using the water, and enforcing the observance of the same, by imposing fines and penalties, not exceeding one hundred dollars in any one case, to be collected by said board of water commissioners by action against the owner or occupant of the lot or building upon which such rent is charged, or person violating such ordinance, or by cutting off the use and supply of such water ; and their agents or employees shall be authorized, at all proper times, to enter into any place or building where water is used from the supply-pipes, to examine as to the water, quantity used, and manner of using it.

Regula-  
tions for  
collecting  
rents.

Right of  
entry.

§ 9. Section twenty-two of said act is hereby amended so as to read as follows :

Interest  
upon  
bonds, tax  
for pay-  
ment of.

Proviso.

Income,  
how to be  
applied.

§ 22. Prior to the introduction of water into the city for general use, the common council shall levy and assess upon the real and personal property of the city liable to taxation the amount of interest due or to become due during the ensuing year upon the water bonds issued in pursuance of this act, provided, however, that no tax shall be levied upon the taxable property in said city outside of the water district hereinafter provided for to pay any such interest falling due after the year eighteen hundred and seventy-five. The entire annual income from all sources, after deducting therefrom such sums as may be necessary to defray the expenses of repair of said water-works and of managing and using the same, and other necessary expenses, shall be applied toward the payment of the interest on the loans and toward the creation of a sinking fund for the payment of the principal of the loans as it shall from time to time become due and payable, which sinking fund shall be managed by said commissioners. After the introduction of water into the city for general use, said board of water

commissioners shall annually, on the first Monday in December in each year, report to the common council the amount of moneys received by them (from all sources), and the payments made by them for the support and maintenance of the water-works during the preceding year, and shall pay over to the treasurer of the city of Yonkers the balance remaining in their hands, to be applied by him to the payment of interest on the water bonds. In case the amount so reported and paid by the water commissioners should not be sufficient to pay the interest on the water bonds for the ensuing year, then the difference required to meet said interest shall be assessed by the common council of the city of Yonkers, on and become a lien upon and be collected from the real property, in front of and near which water-pipes shall be laid within the district to be supplied by water, the boundaries of which district shall from time to time be fixed by the common council, and shall be known as the "water district." The assessors of said city of Yonkers shall annually make an assessment roll of said real property in said "water district," for the use of the common council in assessing, levying and collecting said water tax, which shall be assessed, levied and collected in the same manner, as near as may be, as is or may be prescribed by the charter of the city of Yonkers for the assessment, levying and collecting of taxes within said city; but the same shall be assessed and collected by and upon a separate assessment roll, and by separate warrant, and by separate proceedings from the collection of general taxes; and the same proceedings shall be had by the common council for the sale of lands for the non-payment of any such water tax as is or may be prescribed in said charter for the sale of lands for the non-payment of taxes.

Annual report of commissioners, &c.

Interest, how paid if income not sufficient.

Assessment roll in water district, levying, &c., of taxes.

Sale of land.

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

§ 23. Ten years after the date of the bonds authorized to be issued under this act, the common council of the city of Yonkers shall, in addition to all other taxes, annually levy, assess and collect, from the taxable property within the city of Yonkers, two per cent. upon the amount of water bonds so issued, which amount, when collected, shall be paid to the board of water commissioners, to be used by it as a sinking fund for the retirement of said water bonds; and said board of water commissioners, upon the receipt of said amount, shall immediately advertise for proposals to sell to it for said sinking fund said water bonds to an amount sufficient to absorb the amount received from said tax, and shall accept the most favorable proposal, if deemed for the interest of the city; but in case none of said water bonds are offered to said sinking fund, or, if offered on terms not satisfactory, said board of water commissioners shall invest the amount so received either in the bonds of the United States or of the State of New York, or any bonds of the city of Yonkers. Any bonds issued under the provisions of this act, purchased by said board of water commissioners, shall be stamped as belonging to the sinking fund; but the commissioners shall collect the interest thereon as it becomes due, and invest the same in the same manner as the amount received from the proceeds of the tax. Any surplus income, after paying the necessary expenses of operating and maintaining the water-works and paying interest upon the water bonds issued therefor, shall in like manner be invested in said bonds or other bonds, as above provided for the investment of the money received from the direct tax; provided, however, that no tax as above provided shall be imposed for said sinking fund if the surplus, after paying all expenses and interest, at the end of the ten

Sinking fund, how created.

Application thereof.

Surplus income, how invested.

Proviso.

years or any succeeding year, should be equal to two per cent. of the amount of water bonds issued; and provided, further, that if the amount of said surplus moneys should not equal two per cent. of the whole amount of water bonds issued, then the difference between such surplus amount and the said two per cent. only shall be annually assessed and collected.

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

Statement of water commissioners to common council.

§ 24. The said board of water commissioners shall annually, on the first Monday of December in each year, and at such other times as required by the common council of the city of Yonkers, deliver to them a detailed statement of all the accounts of said water commissioners, a general statement of all their work and the condition of their affairs and the state of their finances, including a full detail of the amount received from all sources, and the amount expended in the progress of the work, and a particular statement of any deficiency as to meeting the expenses and interest on the principal sum borrowed and the sinking fund, as in this act authorized, and all books and papers of every kind kept by said commissioners, on which are entries of their transactions as such, shall at all times be subject to the inspection of the mayor and said common council, and of every member of the said common council.

Books and papers to be subject to inspection.

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

By-laws.

§ 26. The said board of water commissioners shall have power, from time to time, to make and establish such by-laws, ordinances, rules and regulations as they may judge proper for the election of officers, their terms of office, and as to the duties of their officers, agents and employees, and the means of enforcing such duties, and for the regulation of the times and manner of holding meetings of the board of water commissioners, and generally for transacting, managing and directing the affairs of the board of water commissioners. They shall also establish an office for the filing, depositing and recording of all books, papers and maps required to be filed in the transaction of their business.

Office to be established.

§ 13. Section twenty-eight of said act is hereby amended so as to read as follows:

Water assessments.

§ 28. The said board of water commissioners shall, after the introduction of water for general use, in addition to the scale of rents heretofore authorized to be established for the use of the water, establish a scale of annual rents, to be denominated "water assessments," and apportioned to all the different lots, pieces or parcels of land in said city, including lots upon which buildings are erected, in front of or near which water-pipes shall be laid. Said board may increase or diminish such scale of "water assessments" from time to time, provided, however, that said water assessments upon any lot shall not exceed thirty cents per lineal foot street frontage upon any such lot. Such "water assessments," when so established, shall be collected from the owners or occupants of all such lots, pieces or parcels of land, respectively, which shall front upon any street, avenue, alley or private-way in said city in which the distributing water-pipes are or may be laid, and from which they can be supplied with water. Said water assessments shall become a charge and lien upon the whole of such houses and lots, respectively, so fronting, as aforesaid, to the extent of their front, width and depth. The said board of water commissioners shall annually cause an assessment list of said lots to be prepared, upon which said "water assessments" shall be a lien, and for the valid assessment of any

Proviso.

From whom to be collected.

To be a lien.

List of lots to be made annually.

lands under this section, it shall be sufficient to give the name of the owner, when known, together with the lot number, if any, on any designated map, the side of the street upon which said lot is located, and the size thereof, as nearly as can be ascertained. In case the owner or owners of any of said lots shall not be known, then the same shall be assessed to "unknown owners." No error in the name of the owners shall invalidate the assessment, nor shall any error in the description invalidate the assessment unless the same shall mislead the owner of such land. The said board of water commissioners shall by ordinance or by-law establish a day on which shall commence each fiscal year; all water assessments shall be payable to the treasurer of the water board, within thirty days after the commencement of each fiscal year, and such assessment shall be, from the commencement of each fiscal year, liens upon the property upon which the same shall be assessed or charged. The treasurer of said water board shall, at the termination of each fiscal year, cause a list of the lots, pieces or parcels of land upon which water assessments remain unpaid, to be prepared and certify the same, which list shall contain in the first column a brief description of the property upon which unpaid water assessments shall have been imposed, or been payable during such years; in the second column the amount of the annual water assessment charged and unpaid upon such property; in the third column the name or reputed name of the owner or occupant of such property, or, if such owner shall be unknown, then the words "unknown owner," and shall file such certified list with the clerk of said city. The common council of said city, shall thereupon issue their warrant to the receiver of taxes of said city directing him to collect the same, with interest and commissions as is or may be provided for the collection of city taxes, and said receiver shall, daily, make payment of such water assessments as he shall collect to the treasurer of the board of water commissioners, and report daily, in items, the amounts collected, and against what property, and make return of his proceedings and of unpaid water assessments, in the same manner as is or may be prescribed in the charter of the city of Yonkers upon a warrant issued to him for collection of city taxes, and as to such water assessments as shall not be paid to such receiver, and the non-payment of which he shall return and certify as above, the said common council are hereby authorized to sell the property upon which the same shall be charged, in the same manner and to the same extent, and to the same effect in all respects as they are or may be authorized to sell lands for unpaid taxes; and the issuing of a lease upon any such sale shall be presumptive evidence of the regularity of the sale, the legality of the imposition of the charge or water assessment, and that the same was unpaid, and that all the proceedings, up to and including the issuing of such lease, were regular and lawfully authorized. The amount of money derived from the sale of such property shall be paid to the treasurer of the board of water commissioners. For the purposes of this section the first fiscal year shall consist of that period of time between the day when the said commissioners shall elect and determine to commence the supply of water for said city, and the day as aforesaid to be designated as the day in which the fiscal year shall commence. The said board of water commissioners are hereby authorized to ascertain, and by resolution to determine, a day upon which for all purposes of this act, it shall be deemed that water shall have been introduced for general purposes, according to the intent and meaning of this act.

Error not to invalidate.

Fiscal year.

Water assessments, when payable.

Unpaid assessments, list of lots.

Warrant of collection.

Daily payment, &c.

Sale of property, how made.

Fiscal year.

§ 14. Section twenty-nine of said act is hereby amended so as to read as follows:



Interest upon unpaid assessments.

§ 29. Water assessments which shall remain unpaid at the expiration of thirty days after the commencement of the fiscal year, and which shall be paid at any time before sixty days after the commencement of such fiscal year, shall draw interest at the rate of seven per cent. per annum, from the commencement of the fiscal year; and water assessments which shall remain unpaid sixty days after the commencement of the fiscal year shall draw interest at the rate of twelve per cent. per annum from the commencement of the fiscal year until paid.

§ 15. Section thirty-three of said act is hereby amended so as to read as follows:

Taking highway for reservoir.

§ 33. Whenever it shall be necessary, in the judgment of the said board of water commissioners, to take any public road or highway for the purposes of a reservoir, it shall be lawful and it shall be the duty of the said board either to raise the said road or construct a bridge therefor, or to take land for the purpose of a highway, and to construct a highway thereon in place of the one so taken, and the expenses of taking such land and of constructing or raising such highway or bridge shall be deemed a part of the expenses of taking land authorized by this act and by the acts hereby amended; and all damages sustained by the owner of any land, by reason of change of such highway, shall be assessed and ascertained by the commissioners of estimate appointed in pursuance of the provisions of this act and of the act hereby amended, and shall be paid for in the same manner as damages for the taking of lands.

Expenses.

§ 16. This act shall take effect immediately.

## Chap. 558.

AN ACT to incorporate the Niagara River Transit Company, and to authorize said company to construct a bridge or tunnel.

Passed May 22, 1874; three-fifths being present.

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

Corporators.

SECTION 1. Lewis P. Dayton, John S. Ganson, James Tillinghast, Dennis Bowen, Joseph Warren, James M. Matthews, Samuel F. Alberger, John Allen, Jr., Walter Carey, Robert G. Stewart, Jacob Schue, Daniel E. Bailey, Israel S. Sencer, Thomas Leighton, Isaac Holloway, John S. Casement, J. Condit Smith, Milton Randall, Gaylord N. Sherwood, L. C. Woodruff, James Adams, Joseph Bock, E. L. Hedstrom, William H. Greene, Britain Holmes, Alfred S. Hubbell, Jacob A. Gittere, Josephus N. Larned, Alexander S. Diven, David S. Bennett, Nelson Holland, John Wilkinson, John M. Hutchinson, John B. Griffin, Thompson Hersee, D. Clinton Welch, John McMannus, Edward L. Stevenson, Gibson T. Williams, Oliver G. Steele, George W. Tift, Richard Bullymore, Dexter P. Rumsey, James C. Evans, John F. Schoelkopf, Philip Becker, Elam R. Jewett, William G. Fargo, William P. Letchworth, Martin Taylor, William Baynes, Orsamus H. Marshall, Guilford R. Wilson, George R. Potter, Robert D. Sherman, Edward Bennett, N. C. Scoville, George Chambers, Joseph W. Smith, and such other persons as they may associate with them, under the provisions of this act, shall be and they are hereby incorporated a body corporate by the name of the Niagara River Transit Company, with power to associate with any other persons, company, association or corporation in the dominion of

Corporate name.