

L A W S
OF THE
STATE OF NEW YORK

PASSED AT THE
NINETY-FIRST SESSION

OF THE
LEGISLATURE,

BEGUN JANUARY SEVENTH, AND ENDED MAY SIXTH, 1868,
IN THE CITY OF ALBANY.

VOL. I.



ALBANY:
VAN BENTHUYSEN & SONS' STEAM PRINTING HOUSE.
1868.

Ella street
to be ex-
tended.

§ 6. The said board of trustees are hereby authorized and empowered to extend Ella street in said town, over and across Cromwell creek to the Central Park avenue.

§ 7. This act shall take effect immediately.

Chap. 43.

AN ACT to provide for an additional supply of water in the city of Albany.

Passed March 20, 1868 ; three-fifths being present.

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

Duty of
water
commis-
sioners.

SECTION 1. It shall be the duty of the water commissioners of the city of Albany, on the requisition of the common council of said city, in the form and manner now required by law for the improvement and extension of the water works of said city, to examine and consider all matters relative to procuring an additional supply of pure and wholesome water ; and for that purpose they shall have power to employ engineers, surveyors and such other persons as may be necessary.

Condition-
al con-
tracts.

§ 2. The said commissioners shall adopt such plans as in their opinion may be most feasible for procuring such additional supply of water, and shall ascertain the probable amount of money necessary to carry the same into effect, and for that purpose they shall have power to make conditional contracts, to become valid when ratified by the common council of said city, with the owner or owners, whether individuals or corporations, of all lands, tenements, hereditaments, rights or privileges whatsoever, which may be required for the purpose, and they may make the like conditional contracts for the execution of the work or any part thereof, or the supply of any necessary material.

Report up-
on plan and
estimate of
expense.

§ 3. The commissioners shall make a report to the common council, containing a description of the plan adopted by them, their estimate of the expense thereof, with their reasons and calculations for their said estimate, and also the conditional contracts made by them under this act.

§ 4. The common council are hereby authorized to raise by loan, from time to time, a sum not exceeding in the aggregate five hundred thousand dollars, by the creation of a public fund or stock, to be called "The water stock of the city of Albany," which shall bear an interest not exceeding six per cent per annum, and the principal be payable, not exceeding thirty years from the time of issuing any such stock; and the said common council, when sufficient means, in their opinion, can be provided, as they may be needed, and the plan submitted has been ratified and approved, may direct the prosecution of the work.

Common council may raise loan.

Water stock, to issue.

§ 5. The moneys to be raised by virtue of this act, shall be applied and expended for the purpose of procuring an additional supply of water for the city of Albany, according to the plan ratified and adopted as aforesaid, with such alterations as may be made by the said commissioners, with the approval of the common council, and for no other purpose whatsoever.

Moneys; how to be expended.

§ 6. The said commissioners are hereby authorized to enter in and upon any land or water, for the purpose of making surveys, and to agree with the owner of the property, real or personal, which may be required for the purposes of this act, as to the amount of compensation to be paid to such owner.

Commissioners may agree with owners of land.

§ 7. In case of disagreement between the commissioners and the owner of any property which may be required for said purposes, or affected by any operation connected therewith, as to the amount of compensation to be paid to such owner, or in case any 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 in the third district, shall, upon the application of either party, after ten days' personal notice, or where such notice cannot be served within the State, after three weeks' notice of such application, published in two of the daily newspapers of the city of Albany, nominate and appoint three disinterested persons to examine such property, who, being duly sworn, faithfully and impartially to discharge their duties, shall estimate and report to the said court the several sums

How to acquire lands.

Three commissioners of estimate to be appointed.

which will be a just compensation to such owners respectively, for the appropriation to the purposes of this act of any property which may be so required, or for the temporary use of any property.

Confirmation of report.

§ 8. Whenever such report shall have been confirmed by said supreme court, the said commissioners may deposit or invest, 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 mayor, aldermen and commonalty of the city of Albany, shall become seized in fee of the property so acquired, and shall be discharged from all claim by reason of any such appropriation or use.

Owners of land may appeal.

Within twenty days after the confirmation of the report of the three persons appointed as aforesaid, either party may appeal by notice in writing to the other to the supreme court in the third district, at any general term, from said report. On the hearing of such appeal, the court may, in its discretion, direct a second estimate and report to be made by the same persons, or it may appoint for that purpose three other disinterested persons. If the amount of compensation to be made by the commissioners is increased by the second estimate and report, the difference shall be paid by the commissioners to the person or persons entitled to the same, when directed as aforesaid; and if the amount is diminished, the difference shall be refunded to the mayor, aldermen and commonalty of the city of Albany, by the person or persons to whom the same has been paid, and judgment therefor may be rendered by the court, on the filing of the second estimate and report, against the person or persons liable to pay the same. Such appeal shall not affect the possession by the mayor, aldermen and commonalty of the city of Albany of the property acquired as aforesaid; nor shall it suspend or delay the prosecution of the work authorized by this act.

Second report.

Willful injury to work; how punished.

§ 9. If any person shall willfully do or cause to be done any act whereby any work, materials or property whatsoever erected or used by the said common council, or by the said commissioners, or by any person acting under their authority, for the purpose of procuring and

keeping an additional supply of water, shall in any manner be injured, such person on conviction thereof, shall be deemed guilty of a misdemeanor and punished accordingly.

§ 10. All contracts for materials or for the construction of the work shall be made in writing, and executed by the parties in triplicate; one copy shall be given to the contractor, one to the chamberlain of said city and one retained by the commissioners.

Contracts ;
how executed.

§ 11. Public notice shall be given in one or more newspapers as the said commissioners shall direct, of the time and place at which sealed proposals will be received for entering into contracts; and all sealed proposals for contracts shall be for a sum certain as to the price to be paid or received, and no proposition which is not thus definite and certain shall be received or acted on, and no more than one proposition shall be made by or received from any one person for the same contract, and no proposal or contract shall be assigned without the consent of the commissioners and common council.

Notice of
receiving
proposals
to be given.

§ 12. Every person who shall enter into any contract for the supply of materials or the performance of any work, shall give satisfactory security to the said commissioners, for the faithful performance of his contract according to its terms.

Security to
be given.

§ 13. It shall be the duty of the said commissioners to superintend the construction of the work, keep a record of their proceedings in a suitable book, and they shall have and exercise a general supervisory and controlling power in all matters relating to the preservation and continuance of the work authorized by this act, and shall annually make a report to the common council of their proceedings generally and of the matters in their charge, and at any other time when required by the common council.

Water
commissioners to
superintend
construction.

§ 14. The common council shall authorize the commissioners to draw upon the chamberlain of the city for any sum in favor of and to be paid to the owner of any land, waters, streams or property acquired by virtue of this act, and in favor of and to be paid to any contractor or other person for materials furnished or work performed. Such drafts shall specify the objects for which they are

Common
council to
authorize
drafts upon
city chamberlain.

drawn as near as may be, and the common council shall make it the duty of the chamberlain to pay such drafts in every case where a deed or other voucher is delivered to him, or a contract has been filed with him and a duplicate receipt of the contractor or other person for such draft shall be presented therewith.

Right to
use of pub-
lic streets.

§ 15. The said commissioners, in behalf of the said mayor, aldermen and commonalty, and all persons acting under their authority, shall have the right to use the ground or soil under any street, highway or road within the county of Albany, for the purpose of procuring an additional supply of water for the city of Albany, on condition that they shall cause the surface of said street, highway or road to be relaid and restored to its usual state, and all damages done thereto to be repaired.

Sinking
fund.

§ 16. The sum of five thousand dollars per annum, and such additional amount as the commissioners annually may direct, shall be set apart and constitute a sinking fund for the payment of the principal of the loan or loans authorized by this act, as it shall from time to time become due and payable, which sinking fund shall be controlled and managed by the board of trustees having charge of the sinking funds of said city, and in the same manner as now provided by law.

Deficiency
in annual
receipts ;
how to be
met.

§ 17. In case the entire annual receipts for water rates after deducting therefrom such sum or sums as may be necessary to defray the ordinary expenses and repairs of the water works and of extending the same, shall not be sufficient in any one or more years to pay the interest on the loan or loans, and also the annual appropriations for the sinking fund ; it shall be and is hereby made the duty of the board of supervisors of the county of Albany and they are hereby authorized and directed to cause to be levied and collected from and against all the taxable property, at the same time and in the same manner as other contingent expenses of said city are assessed, levied and collected, such sum or sums of money as may be certified by the said common council to be necessary to make good such deficiency, and the same shall be applied to the payment of such interest and appropriations to the sinking fund.

§ 18. This act shall take effect immediately.