

L A W S  
OF THE  
STATE OF NEW YORK,

PASSED AT THE  
EIGHTY-NINTH SESSION

OF THE  
LEGISLATURE,

BEGUN JANUARY SECOND, AND ENDED APRIL TWENTIETH, 1866, IN THE  
CITY OF ALBANY.

VOLUME



ALBANY:  
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1866.

the debts contracted by its officers or agents for its use, but shall not be liable to an action therefor before an execution shall be returned unsatisfied in whole or in part, against said corporation, and then the amount due on such execution shall be the amount recoverable, with costs, against such stockholders.

§ 4. The said corporation shall have power to make <sup>By-laws.</sup> and adopt a constitution, by-laws, rules and regulations, for the admission and government of its members, as well as for their suspension and expulsion, and regulating the transfer, sale or disposition of the shares, rights and interests in said club, and for the forfeiture of the same; and further, for the election of its officers and defining their duties, and for the safe keeping, management and disposition of its property and funds. It may also from time to time, alter or repeal such constitution, by-laws, rules and regulations.

§ 5. The said club is hereby authorized and em- <sup>Bonds.</sup> powered to purchase, hold, convey, mortgage and lease real and personal property, to secure the payment of any bond or bonds which the said club may make or issue, and to have, hold and use the privilege or license to fish and shoot on waters and over grounds not owned by said club, for the purposes of such club, but shall not hold any such real estate exceeding in value one hundred thousand dollars.

§ 6. The said corporation shall also possess the powers, and be subject to the restrictions and liabilities contained in the third title of the eighteenth chapter of the first part of the Revised Statutes.

§ 7. This act shall take effect immediately.

## Chap. 347.

**AN ACT** to supply the village of Middletown with water for public and private purposes.

Passed April 3, 1866; three-fifths being present.

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

SECTION 1. The board of trustees of the village of <sup>Power of</sup> Middletown, in the county of Orange, are hereby au- <sup>trustees.</sup>

thorized and empowered to take water from any lake, pond, stream or spring within the town of Walkkill, or any adjoining town, provided that the rights of owners sustaining damages thereby be paid for by said village, as hereinafter provided, and such water to convey into and through the said village by means of aqueducts, reservoirs, and other suitable works, in such quantities as the necessities and conveniences of said village may require; also to take and hold any land or other property, and to exercise any powers not inconsistent with the laws of this State, for carrying into full effect the purposes of this act.

Surveys in case of disagreement between trustees and owners of land.

§ 2. In case any disagreement shall arise between said board of trustees and the owner or owners of such land, in respect to the purchase or taking thereof, they shall cause a survey and map of the lands intended to be taken or entered upon for any of said purposes, by which the land of each owner or occupant intended to be taken or used shall be designated, which map shall be designed by the surveyor or engineer making the same and by the president of said board of trustees, and be filed in the office of the clerk of the county of Orange. The said board of trustees, by any of its officers, agents, or servants, may enter upon any lands for the purpose of making any examination and of making said survey and map, doing no unnecessary damage.

Appointment of commissioners of appraisal.

§ 3. In case said board of trustees cannot agree with said owners and occupants of any lands or water intended to be taken or used as aforesaid, for the purchase thereof, the directors may apply to the Supreme Court at any term in session thereof, held in the second judicial district, for the appointment of three commissioners, by whom the compensation to be paid for the damages suffered or to be suffered by any person or persons, by reason of taking said lands and water, and constructing any of the works for said purpose, shall be ascertained and determined; and in case of the death, resignation, refusal or disability to act of any of the said commissioners, the said court may appoint others in their places. The commissioners shall cause a notice, of at least twenty days, of the time and place of their meeting, to be served upon

Duty of commissioners.

such of the owners of said land and water as can be found in this State, which may be served personally, or in their absence from their dwellings or place of business, by leaving the same thereat with some person of suitable age; and in case of any legal disability of such owner to act, then upon serving notice in like manner upon his or her guardian, or person appointed to act for him or her, as hereinafter directed; and in case any of said owners cannot be found in this State, such notice shall be given to them by publishing the same for six weeks successively in two newspapers published in said county; and if any of said owners shall be married women, insane, infants or idiots, the said court shall appoint some suitable person to attend in their behalf before said commissioners, and take care of their interests in the premises. The commissioners may issue subpoenas to compel the attendance of witnesses to testify before them, and they, or any one of them, may administer the usual oath to such witness. They shall make a written report of all their proceedings, containing the testimony taken by them, and showing the sum awarded to each owner or other person, and return the same to the said court to be filed of record. The trustees shall pay to each commissioner the sum of three dollars per day, for every day necessarily spent by him in the performance of his duties under this act, and to each witness testifying, or if not sworn and testifying, who the commissioners shall certify were properly and necessarily subpoenaed, the sum of fifty cents per day, and four cents per mile going and returning, if living more than three miles from the place of meeting.

§ 4. The said trustees or any party to the proceedings of the commissioners, may appeal from any award or determination of the commissioners, provided the party appealing shall, within ten days after any such award or determination shall be made, give notice of the appeal to the other party or parties interested in the same; and the said court shall, upon the report of the commissioners and upon additional testimony to be taken by them, if they deem the same to be necessary, proceed to hear the said appeal, and may con- Appeal.

firm the proceedings of the commissioners, or may increase or diminish the amount of the compensation awarded by the said commissioners, and if the proceedings in any case have been irregular, the court may set the same aside and order a new proceeding and appraisal, and the said court may make such orders in reference to the proceedings of the commissioners and of the notices to be given to parties as may not be inconsistent with this act, and as the nature of the case and the interest of the parties may require.

When trustees to make deposit of award.

§ 5. Upon the payment or legal tender of the compensation awarded by the said commissioners, or (in case of appeal) by the said court, the said trustees shall be entitled to enter upon, for the purpose contemplated by this act, all the lands, waters and real estate for which said compensation shall be paid or tendered as aforesaid, and to hold and to use the same for the said purpose, to them and their successors forever. If any person to whom any compensation shall be awarded, or who shall be entitled to the same by virtue of said award, cannot be found, or shall refuse to receive the sum awarded to him, then the said payment may be made by depositing the amount of said award to the credit of said person in such bank or trust company as the court may appoint. A certificate of such deposit signed by the cashier of the bank or trust company shall be published by said trustees in two newspapers published in the county of Orange, for four weeks successively, immediately after said deposit. If the person to whom the compensation is awarded, or who is entitled to receive the same as aforesaid, be under legal disability as aforesaid, payment may be made to his or her guardian or person appointed as aforesaid by the said court, and if the said guardian or person appointed cannot be found, then by deposit as aforesaid.

Publication of certificate of deposit.

Water commissioners.

§ 6. Said trustees shall appoint three persons who shall act as a board of water commissioners with the powers conferred by this act, and shall hold office until others are appointed. Said commissioners before entering upon their duties shall take the usual oath of office.

§ 7. Said commissioners are hereby authorized and

empowered to purchase and take conveyances for and in the name of the village, of all lands or other estates or privileges, necessary or convenient for accomplishing the purposes of this act; to make contracts for labor and materials for the general purposes contemplated by this act; to dam and hold in sufficient quantities the water of any pond, lake, stream or spring; to lay and construct all necessary pipes, aqueducts or reservoirs, either within or without said village; to make use of the ground or soil under any railroad, street, high or private way, for the purposes of laying said pipes or aqueducts in such manner as least to obstruct or impede travel thereon, causing all damage 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; to make and establish public reservoirs and hydrants under the direction of the trustees; to regulate the distribution and use of said water, and establish the prices to be paid therefor, provided, that in the regulation of said water for all public uses, said board shall be under the direction of the trustees; 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 waterworks, and generally to attend to the construction, supervision, care and management of said water works, and to exercise any additional powers that may from time to time be conferred upon them by said village; and they shall keep a record of their official proceedings and render a report of their doings to said village, including a general exhibit of the state of the works, an account of the sums to be expended therefor, and such other matters of information as may be called for by the trustees at each annual meeting, and to the trustees whenever by them required; and said commissioners shall keep regular books of account, and no commissioner, trustee or other officer of said village shall be interested directly or indirectly in any contract or work made or done under any of the provisions of this act.

§ 8. A majority of said commissioners shall consti-<sup>Quorum.</sup>

tute a quorum for the transaction of any of the business of said board, and all vacancies which shall occur in said board, by death, resignation or otherwise, shall be filled as soon as may be by the trustees.

Water fund.

§ 9. For the purpose of defraying the cost of construction of said water works, including the cost of purchase and the other expenses incident thereto, and for no other purpose whatever, said village is hereby authorized and empowered to issue notes, scrip, or certificates of debt, to be denominated on the face thereof "water fund of the village of Middletown," to an amount not exceeding in the whole the sum of fifty thousand dollars, bearing interest at no greater rate than seven per cent. per annum, the principle of which shall be payable at some future time or times, within thirty years from issuing of the same, and the amount of said notes, scrip or certificates which may at any time be issued, together with the times of payment of the principal and interest thereof, and the rate of interest shall be prescribed by said village in legal village meeting, for that purpose especially called and held, and said notes, scrip or certificates shall be signed by the president and countersigned by the treasurer thereof, and shall, when issued, be obligatory upon said village and the inhabitants thereof according to the purport and tenor of the same.

Duty of water commissioners relative to certificates of debt, &c.

§ 10. Said board of water commissioners shall be the trustees of the notes, scrip, or certificates of debt issued by said village; shall superintend the issuing of the same, and regulate the particular form thereof, and after the same or any part thereof shall be issued, they may sell the same at not less than par, in such manner and on such terms as they may deem best, or they may pledge the same for moneys borrowed by said village, to be used in or about the construction of said works. And said board shall keep a record of all such notes, scrip or certificates issued, disposed of or pledged, and all moneys received by said board shall be paid over to the village treasurer.

Application of water rents.

§ 11. The avails of all water rents shall be first applied to defraying the ordinary and current expenses of said water works, after which to the payment of the interest on said notes, scrip, or certificates, and if

there shall at any time still be an excess, the village treasurer shall report the fact to the trustees, who may direct whether the same shall be applied to the extinguishment of the principal debt incurred by the issuing of said notes, scrip, or certificates, or to any other purpose in connection with said works.

§ 12. In case the avails of water rents in any year, shall be inadequate to meet the current expenses of said water works and the interest of said notes, scrip, and certificates, the deficiency shall be supplied by the laying of a tax on all persons liable to village taxation, which said tax may be laid at any village meeting, legally called for that purpose; and said village may, at any meeting for that purpose specially called and held, lay taxes for the purpose of paying the principal debt aforesaid, or any part thereof, by the establishment of a sinking fund, or in any other manner.

In what case village to be taxed for expenses of water works.

§ 13. Taxes laid for the purposes mentioned in the preceding section, may be collected in the same manner as other village taxes, and 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 occupant thereof; and said lien may be foreclosed in any court of record in the same manner as a mortgage is now foreclosed, according to the rules of practice of such court or the laws of this State.

Collection of tax.

§ 14. It shall be the duty of said commissioners to designate, in all orders by them drawn upon the treasurer, the class to which the same belongs, whether construction account or expense account, and the treasurer shall pay all such orders from the appropriate fund as established in the foregoing sections of this act. And such commissioner and treasurer shall give bonds, with sufficient surety, for the faithful performance of their several trusts, in such sums and shall receive for their services such compensation as such trustees shall prescribe.

Construction account.

Expense account.

Bonds of treasurer, &c.

§ 15. 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

Penalty for injury to water or works.

or property used or designed to be used in connection therewith, he shall forfeit and pay 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.

Who to vote on raising money.

§ 16. Any person who is qualified to vote at any village meeting called for the purpose of voting money for defraying the ordinary municipal expenses of said village, shall be entitled to vote at any meeting called as provided for in this act, provided no person who is not a resident of said village, and not a taxable inhabitant thereof, shall be entitled to vote at any meeting provided for in this act.

When trustees may grant right of construction, &c.

§ 17. The trustees of said village of Middletown may, provided they are authorized so to do by a meeting of the taxable inhabitants duly called in pursuance of the provisions of this act, grant to any individual, individuals or company, the right to construct reservoirs, aqueducts and other suitable works, and to lay the necessary pipes for supplying the said village with water for public and private purposes, and continuing the same upon such terms and conditions, and in such way or manner by grant, contract, resolution or otherwise, as such trustees and their successors in office may deem expedient or proper. And the individual, individuals or company with whom said trustees may contract, shall have all the powers that are conferred by this act upon the board of trustees and water commissioners, so far as the same may be necessary for accomplishing the objects of this act, in supplying the said village with water.

Call of meeting.

§ 18. This act shall, to all intents and purposes, be a public act, and may be altered, amended or repealed by the legislature; and the trustees of said village are hereby authorized and required to call any meeting of the taxable inhabitants of said village, for any purpose for which such meeting may be required or necessary under the provisions of this act, which call shall be signed by the president of said board of trustees and

the clerk of said village, and the same published for at least two weeks in one or more papers published in said village.

§ 19. This act shall take effect immediately.

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## Chap. 348.

AN ACT to amend chapter two hundred and thirty-six of the laws of eighteen hundred and fifty-nine, in relation to the Bank Department.

Passed April 3, 1866.

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

SECTION 1. Subdivision one of section one of chapter two hundred and thirty-six of the laws of eighteen hundred and fifty-nine, is hereby amended so as to read as follows :

1. Whenever any banking association, individual banker, receiver of a banking association, assignee or assignees of an individual banker, shall have given notice to the Superintendent of their intention to close the business of banking, or the trustees or legal representatives of any incorporated bank whose charter has expired, or the receiver of any incorporated bank, which shall have been declared insolvent, shall have redeemed at least seventy-five per cent. of the largest amount of their circulating notes outstanding at any time, as shown by the books of the Bank Department, they shall be entitled to deposit with the Superintendent, and he is hereby authorized to receive, a deposit of money equal to the amount of the outstanding circulation at the time of such deposit, to be placed by him in some bank in the city of Albany, in good credit, upon the receipt of which it shall be lawful for the Superintendent to give up all other securities theretofore deposited with him for the redemption of circulating notes issued thereon.

§ 2. This act shall take effect immediately.