

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. II.



ALBANY:

VAN BENTHUYSEN & SONS' STEAM PRINTING HOUSE.
1868.

the village of Olean, is hereby amended, by changing the west boundary line as follows: Beginning at the north bank of the Allegany river, at the south end of Seventh street, as described on a map of the village of Olean, made by T. J. Gosselim, running thence north on the east side of said street to the north line of township number one, in the fourth range of the Holland land company survey.

§ 3. This act shall take effect immediately.

Chap. 557.

AN ACT to amend the charter of Saratoga Springs, passed March twenty-sixth, eighteen hundred and sixty-six, and for the purpose of securing a supply of pure and wholesome water for the use of said village.

Passed May 4, 1868 ; three-fifths being present.

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

Trustees
to issue
village
bonds.

Amount,
rate of
interest,
and time of
payment.

Avails to
be applied
for procur-
ing a sup-
ply of
water.

To whom
bonds to be
delivered.

Sale of

SECTION 1. The six trustees of the village of Saratoga Springs or a majority of them are hereby authorized and directed to issue the bonds of said village, executed by them, or a majority of them, and signed by the president of the village and countersigned by the clerk of said village, to an amount not exceeding one hundred thousand dollars, which shall bear interest not exceeding seven per cent per annum, and payable at some time within thirty years from the date thereof, such interest being payable semi-annually; the avails of said bonds to be used for the purpose of furnishing a supply of pure and wholesome water to the inhabitants of said village, and for the purpose of extinguishing fires therein. The said bonds, or so many of them as shall be required for the purpose of this act, shall be delivered by the said trustees, or a majority of them, to the commissioner of construction hereinafter provided for, when appointed, and take the receipts therefor in books prepared for that purpose.

§ 2. It shall be the duty of said commissioners of con-

struction, or some of them, to be designated by the board of trustees to negotiate and sell the said bonds, or so many of them as shall be required, and convert the same into money as fast as necessary, provided, always, that said bonds shall not be sold or negotiated for less than their par value; the money when so obtained shall be deposited in one of the national banks in the village of Saratoga Springs to the credit of said trustees, and to be drawn out on the order of said commissioners of construction, countersigned by said trustees, or a majority of the six trustees elected in said village, for the objects and purposes of this act, and not otherwise.

bonds at not less than par value.

Avails thereof to be deposited in bank. Money, how drawn out.

§ 3. It shall be the duty of the trustees or a majority of the six trustees elected in said village, at the first monthly meeting after the passage of this act, or as soon thereafter as may be, in writing signed by them, to appoint three competent persons commissioners of construction, to hold their office during the pleasure of the said trustees, or a majority of them, and to fill all vacancies that may occur therein, by a writing signed by them; whose duty, or the duty of any two of whom it shall be, to make examinations and determine on the best mode for obtaining a supply of water for the use of said village, acting under the advice and subject to the direction and control of said trustees, or a majority of them. They shall in like manner be empowered to cause the necessary surveys, estimates and levels to be taken for that purpose, to enter upon and take possession on behalf of said village, of any lands, springs, streams, brooks, lakes and sources of supply of water for that purpose, first paying the owners all reasonable damages therefor. They shall, as aforesaid, have power to enter into contract or contracts for pumps, machinery, water power, land pipes, hydrants, and for the erection of dams, buildings and other materials for the construction and putting in order and completing said works, and for the employment of all necessary labor to lay water pipes and superintend the construction of said works. Said commissioners may, as aforesaid, enter upon any lands, streets, highways, roads, lanes or public squares through which they may deem it proper to convey the water from said springs, fountains, ponds, streams, and lay and

Commissioners of construction.

Commissioners to make examinations and surveys.

May enter upon lands, springs, etc.

May contract for machinery, etc.

May employ labor and superintend construction of work.

To leave lands, streets, etc., in proper condition.

construct any pipes, conduits, aqueducts or other works for that purpose, leaving the said lands, streets, highways, roads, lanes and public squares in the same condition, as nearly as may be, as they were before said entry, and generally to do, under the direction of the trustees, as aforesaid, everything necessary and proper to carry out the intent and purposes of this act.

Commissioners to cause survey and map to be made and filed.

§ 4. Before taking or using any land for the purposes of this act, the commissioners shall cause a survey and map thereof to be made by which the land of each owner or occupant intended to be taken or used shall be designated, and such map so made shall be signed by the surveyor or engineer making the same, and shall be filed in the office of the clerk of said village. The commissioners or any person in their employ 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 referees to appraise damages.

§ 5. In case the said commissioners cannot agree with the said owners or occupants of any land, water or water powers to be taken, used or damaged as aforesaid, for the purchase thereof, or on the amount of damages to be paid, the commissioners may apply to the supreme court, at any general or special term thereof held in the fourth district, for the appointment of three referees 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 said works shall be ascertained and determined; and in case of the death, resignation, refusal or inability to act of the said referees, 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 meeting of such referees, to be served upon such owners of said land, water and water power as can be found in this State, which notice 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 disability of such owner to act thereupon, serving notice in like manner upon his guardian or person appointed to act for him, as hereinafter directed; and in case any of said owners cannot be

Notice of meeting of referees; how to be served.

found in this State, such notice may be served by publishing the same once in each week for six successive weeks in two newspapers published in said village; and if any owners shall be married women, insane, idiots or infants, the said court shall appoint some suitable person to attend in their behalf before said referees, and take care of their interests in the premises. The referees may issue subpoenas to compel the attendance of witnesses to testify before them, and they or any of them may administer the usual oath to such witnesses. 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 said court to be filed on record. The commissioners shall pay to each of the referees the sum of three dollars for each day necessarily spent in discharging the duties for which they were appointed.

Referees may compel attendance of witnesses. Report and statement of awards.

Compensation.

§ 6. Either party may appeal from the award or determination of the referees, provided the party appealing shall, within ten days after such award or determination shall be made, give written notice of the appeal to the adverse party; and the said court shall, upon the report of the referees, proceed to hear the said appeal, and may confirm the report of the referees or set the same aside and order a new appraisalment by the same or other referees, to be appointed by the court; and the said court may make such orders in reference to the proceedings of the referees, and of 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.

Appeals.

Court may confirm report of referees, or order new appraisalment.

§ 7. Upon the payment or legal tender of the sum finally awarded, as aforesaid, the said commissioners shall be entitled to enter upon, take and use all the lands, waters and water powers, for the purposes contemplated by this act, for which compensation shall be paid or tendered as aforesaid; and the same may be held and used for the purposes specified by this act by said trustees, as herein provided, forever. Payments of the compensation awarded to any person may be made to such person, or by depositing such sum to the credit of

Commissioners may enter upon lands upon payment therefor.

Payments; how made.

said person or his representative in one of the national banks at Saratoga Springs.

Lands, waters, etc., to be owned by village.

§ 8. All the lands, waters, powers, real estate and rights which said commissioners shall in any way legally enter upon or take by virtue of this act shall be owned and held by said village forever.

Trustees to establish water rents.

§ 9. The said trustees or a majority of them, after the said works shall have been completed and put into operation, are hereby empowered to establish rents to be paid annually in advance for the supply of water to the inhabitants of said village, occupying lots with buildings thereon, in said village, and to be called water rents, which shall be charged upon and apportioned, as near as may be, to the different classes of buildings, with reference to the character, dimensions, use, value, income occupancy and location thereof, as well as the quantity of water used, situated on streets along which pipes are laid, or accessible thereto. They are also authorized to levy a tax against all unoccupied, vacant and non-resident lots, and lots without buildings thereon in said village, situated along streets through which the main pipes are laid, or accessible thereto, which tax shall be assessed and laid on said lots, according to the value thereof, as appears by the last assessment roll. All of the foregoing taxes shall be a lien and charge upon the real estate supplied with water, or benefited thereby, and be collected and enforced in case of non-payment, in the manner provided by section fifty-one of the charter, and the provision applicable thereto. And the said trustees shall have power from time to time, to alter, amend, increase, correct or diminish such rates, provided, however, that such rates shall be sufficiently high to pay the interest on the bonds issued under this act, and those issued under the act of March twenty-sixth, eighteen hundred and sixty-six, and remaining unpaid, and to pay the necessary annual expenses of said water works, including the tax now authorized by law for such purpose. The balance shall be invested as a sinking fund to pay the water debts created by said bonds when it becomes due, or as they can be redeemed or paid.

Tax upon vacant and non-resident lots.

Taxes to be a lien on lands supplied with water.

Trustees may alter and amend water rates.

Sinking fund.

Oaths of office and official

§ 10. Each of said commissioners of construction, before entering upon the discharge of their duties, shall

take the usual oath of office, and shall give a bond to the trustees, with two or more sureties, to be approved by said trustees, in double the amount of money that may come to their hands, conditioned for the faithful performance of their duties, and to honestly and justly appropriate the moneys which shall come to their hands under the provisions of this act.

bonds of commissioners of construction.

§ 11. The said commissioners of construction may designate one of their number to superintend and manage one or more branch or branches of the said work, under their general supervision, and when so employed he shall be paid at the rate of three dollars per day, to be audited and allowed by the trustees as other village expenses; and neither the said commissioners, or either of them, except when so employed, or said trustees, shall be entitled to any compensation for their services; except the said trustees and commissioners may be reimbursed for such necessary and incidental expenses as they may incur in the discharge of their duties under the provisions of this act.

Commissioners may appoint a superintendent.

Compensation.

Trustees and commissioners to receive no compensation.

§ 12. The connecting or supply pipes leading from the dwellings or other places supplied with water, other than fire hydrants to the distributing pipes, shall be inserted and kept in repair at the expense of the owners or occupants of the buildings or places supplied with water as aforesaid, and shall not be connected with such pipe until permission therefor shall be obtained from the superintendent or other person having charge thereof, and all such connecting pipes and fixtures shall be constructed under and according to the direction of the trustees or superintendent; subject, also, to be cut off, in the discretion of the trustees, for non-payment of tax or violation of the by-laws or regulations governing the water department.

Connecting pipes to be kept in repair by owners of buildings.

Conditions upon which connections may be made with distributing pipes.

§ 13. 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 such water works, and of extending the same, shall not be sufficient in any one or more years to pay the interest on said loan or loans, and also the annual appropriation for the sinking fund as above provided, it shall be and is hereby made the duty of the board of

Tax may be levied by trustees to meet deficiencies in income from water rates.

trustees of said village, and they are hereby authorized and directed to cause to be levied and collected from and against all taxable property in said village, at the same time and in the same manner as other contingent expenses of said village are assessed, levied and collected, such sum or sums of money as may be necessary to pay any deficiency thereof.

Commissioners of construction to keep books of account.

Statement to trustees.

§ 14. The said commissioners of construction shall keep regular books of account of their services, and all their acts and doings, together with all contracts, agreements and disbursements made or entered into, and which books shall at all reasonable times be open to inspection, and shall finally be deposited with the clerk of the board of trustees. They shall render a full account of their transactions to the trustees when called upon, to the end that a full and minute history of the construction and completion of the said works, together with the cost thereof, and the condition of its finances, shall be written out and duly authenticated and preserved for future reference.

Commissioners not to be interested in contracts, etc., for work.

§ 15. It shall be unlawful for the said commissioners, or any one or either of them, directly or indirectly, to be interested in any contract, agreement, purchase, sale or employment to be made, negotiated, or entered into by or on behalf of the said commissioners, or any one employed by or under them, for or on account of any of the objects or purposes of this act.

Repeal.

§ 16. All laws inconsistent with this act are hereby repealed.

§ 17. This act shall take effect immediately.