

L A W S
OF THE
STATE OF NEW YORK,

PASSED AT THE
NINETY-SIXTH SESSION

OF THE
LEGISLATURE.

BEGUN JANUARY SEVENTH AND ENDED MAY THIRTIETH, 1873,
IN THE CITY OF ALBANY.



ALBANY:
WEED, PARSONS AND COMPANY, PRINTERS.
1873.

Company
to pay
damages
resulting
from neg-
ligence of
its own-
ers.

§ 2. Any damage arising to boats or to the commerce of the canals by reason of the negligence of the railway company or its agents in the management and control of said bridge or pier shall be paid by the said railway company, and shall not become a charge against the State.

§ 3. This act shall take effect immediately.

CHAP. 285.

AN ACT to authorize the village of Dansville to create a debt for the purpose of bringing water into said village for protection against fires, and to amend the charter of said village.

PASSED April 24, 1873; three-fifths being present.

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

Trustees
author-
ized to
create a
debt for
the pur-
pose of
supplying
water.

SECTION 1. The trustees of the village of Dansville are hereby authorized and empowered to create a debt for the purpose of supplying said village with a suitable supply of water to be used for the extinguishment of fires in said village, by the issuing of bonds in the corporate name of said village for a sum not exceeding twenty-five thousand dollars and bearing interest not exceeding seven per centum per annum, and payable in sums not exceeding two thousand dollars per annum of the principal, with the annual interest upon the whole sum; and for such purpose the said trustees are hereby authorized and empowered to go outside the corporate limits of said village to obtain such supply of water, and to contract and pay for the right to take such water from any lake, stream, pond or reservoir, and to construct their works and lay their pipes and conduits for conveyance of such water over or through the lands deemed necessary for the construction of such works in the maintenance and repair of the same.

May go
outside of
village to
obtain
water.

Right to
water,
law re-
sulted.

§ 2. If the said trustees shall not be able to agree upon the compensation to be made to the proprietors of water proposed to be taken for the purpose aforesaid, or the land necessary to be taken or used by them for the construction of reservoirs, or for the laying of pipes or conduits for the conveyance of water as aforesaid, the said trustees may apply to the supreme court at any special term thereof for the appointment of three disinterested persons to ascertain and appraise the compensation so to be made as aforesaid, and their decision in the premises shall be final; such application to be by petition, setting forth the property proposed to be taken or used, and served upon the party to be affected thereby, with a notice of the time and place when it will be presented to said court, at least ten days before the time it will be presented.

Survey,
etc.

§ 3. The said trustees are hereby authorized to employ some competent person or persons to make a survey, plan and estimate of the expense of said water-works, and to pay for the same by levying and collecting the sum in the same manner that other taxes are authorized to be levied and collected in said village; and when such survey, plan and estimate is made, it shall be published in all newspapers published in said village, for the information of the tax payers of said village.

Question
of creat-
ing debt to

§ 4. No debt shall be created under the provisions of this act other than for the expenses provided for in the last foregoing section until

the statement aforesaid has been published as aforesaid, nor until the question of the creation of said debt has been submitted to the tax payers of said village at an election to be called for that purpose, and at which a majority of such tax payers present and voting at such election shall have voted in favor of the creation of such debt. The trustees shall fix the time and place of such election and the form of the ballot to be used thereat, and shall publish notice of the same in the newspapers published in said village at least two weeks before the same is to be held. Every inhabitant of said village whose name appears upon the assessment roll made next before said election, as a tax payer, shall be a voter at such election.

to sub-
mitted to
electors.

Electors.

§ 5. There shall be a police justice in the village of Dansville who shall be appointed by the board of trustees and shall reside and keep his office in some convenient place therein, and whose term of office shall be four years from the first day of January next after his appointment. Vacancies in the office, caused by death, resignation or otherwise, shall be filled by the trustees for the unexpired term. He shall perform the same duties enjoined, and shall possess the same jurisdiction, and exercise the same powers and authority conferred by law, now upon the police justice of the city of Rochester in this State. He shall also have jurisdiction in all actions brought to recover fines or penalties for any violation of this act, or of the by-laws, ordinances, rules and regulations of the said village, and all his judgments and proceedings in respect thereto may be reviewed in the same manner as is now or may be prescribed by law with respect to the judgments and proceedings of justices of the peace.

Police
Justice.

Jurisdic-
tion.

§ 6. All actions brought to recover any fine, penalty or forfeiture incurred under this act, or under any ordinance or by-law made in pursuance thereof, shall be brought in the corporate name, and in such action it shall only be necessary to allege in the complaint that the defendant is indebted in the sum claimed, and referring to the section or sections of this act, or the by-law or ordinance under which the penalty is claimed, and to give the special matter in evidence; and the defendant may answer by denial, general or specific, and give the special matter in evidence. The first process in any action under this act, or any by-law or ordinance made in pursuance thereof, may be by warrant, and every such process shall contain an indorsement stating that the same is issued to recover a penalty, and referring to the section or sections, by number of the law or ordinance or by-law under which the penalty is claimed, and no other indorsement shall be necessary; all expenses incurred in proceedings for the recovery of any fine, penalty or forfeiture shall be defrayed by the corporation; and such fines, penalties, forfeitures and costs, when collected, shall be paid to the treasurer of the village for the use thereof, except as herein otherwise provided; except, also, when such proceedings are before a justice of the peace, such costs are to be disposed of as in other cases, before a justice of the peace. When judgment shall have been recovered for any fine, forfeiture or penalty, the execution thereupon shall direct that if the person or persons against whom the judgment has been recovered have no property whereon to levy the same, or out of which the same can be collected, such person or persons shall be imprisoned in close custody in the county jail for a term to be specified in the execution, not exceeding thirty days, and it shall be executed accordingly; in all actions in this section enumerated, when the same are commenced before the police justice (except as herein otherwise provided), in reference to the summons, service, jury, incidents of trial,

Action to
recover
fines, etc.,
may
be brought.

Execu-
tion
thereon
to be
for fines,
etc.

fees, costs and judgment therein, shall be the same as they would have been had such actions severally been commenced before a justice of the peace.

Police Justice on application of trustees, to issue subpoenas, etc.

§ 7. It shall be the duty of the police justice, whenever requested by the trustees or the president of the village, to issue subpoenas requiring any person to appear before him to give evidence upon a complaint or charge for an offense committed, or supposed to have been committed, in the said village, and such subpoenas shall have the like effect in all respects, and disobedience thereunto shall be punished in the same manner as if issued in any action pending before him; upon the return of such subpoena the police justice shall examine the witness or witnesses so summoned on oath in relation to the alleged offense, and if it shall appear that any offense has been committed, he shall proceed in the same manner as though such witnesses had voluntarily made complaint before him.

Police constables.

§ 8. The trustees shall appoint three police constables, who shall possess the same power and perform the same duties, and shall be subject to the same liabilities as constables of the town of North Danville; it shall be the duty of such police constables to obey such orders and directions regarding their duty as they may receive, from time to time, from the trustees or president of the village; to report to the president all violations of this act, or of the ordinances and by-laws of the village, with the names and residences of the witnesses, to preserve the public peace, to attend all public assemblages in the said village, to be vigilant for the prevention and discovery of all crimes, and the detection of all criminals, and to report to the president all crimes and offenses committed in the village, to arrest all persons in the actual commission of crimes, misdemeanors and breaches of the peace, and all vagrants and disorderly persons, to watch all places frequented by tipplers, idlers, gamblers or other disorderly or suspicious persons, and perform such other duties, from time to time, as the trustees or president of the village may direct.

Arrests without process, etc.

§ 9. The police constables of the said village, and each of them, and special police constables appointed as hereinbefore provided, and each of them, shall have power, and are hereby authorized at all times to arrest, or cause to be arrested, with or without process, all persons who shall sell or give away strong or spirituous liquors or wines within the limits of the corporation, contrary to law, all habitual drunkards, all persons found intoxicated in the streets or public places of the said village, or fighting or threatening violence upon each other, and doing any thing tending to injure or endanger persons or property in any of the streets, alleys, lanes or highways of the said village, and also all such persons as are by the laws of this State denominated disorderly persons, all of whom shall be deemed, and be liable to be treated as such; and the said officers shall have authority, with or without process, while in pursuit of such disorderly persons, to enter, or cause to be entered, any building or place within the limits of the said village, and to arrest, or cause to be arrested, any such disorderly person or persons, and shall forthwith carry them before the police justice of the said village, to be dealt with according to the provisions of this act; if the police justice, or any justice of the peace living in or having an office in said village, cannot be found, then the officer having arrested such offender may detain him in custody or commit him to the county jail or any other secure place for safe keeping until such justice can be found, not exceeding twenty-four hours, when the officer shall immediately bring him before such justice to be tried and dealt with as

hereinafter provided; and the said officers, or either of them, shall have power to command assistance whenever he or they shall deem it necessary.

§ 10. Whenever any offender, described in the last section, shall be arrested and brought before the police justice of the said village, or a justice of the peace having an office in the said village, the said justice shall proceed forthwith to hear, try and determine the complaint, or charge on which such person was so arrested; or he may at his discretion, for good cause shown, adjourn the hearing or trial not exceeding five days, and in the mean time shall commit the accused to the county jail or other secure and convenient place, or suffer him to go at large, on his executing a bond to the said village, with one or more sureties, to be approved by the said justice, conditioned that he will appear on the day to which the proceeding is adjourned; and upon his conviction either on his own confession, or on competent evidence, the said justice shall have full power, and is hereby authorized to inflict upon the offender a fine not exceeding fifty dollars, or sentence him to imprisonment in the county jail of Livingston county, during a term of not exceeding six months, or to subject him to both such fine and imprisonment. Whenever any offender, so brought before the police justice or a justice of the peace, shall be charged with a misdemeanor, such offender may demand a trial by jury, and in that case all the subsequent proceedings and incidents of trial in such case shall be the same as they would be if such trial and proceedings were in and before a court of special sessions, except as to the sentence and judgment as herein provided.

Trial of offenders, etc.

Fines, etc.

Jury trial.

§ 11. The trustees may allow the police justice and police constables such fees for any services performed by them as are allowed by law for similar services to justices of the peace and town constables, or may, at their discretion, allow and pay them such compensation or salary respectively in lieu of such fees as they may deem reasonable and just; in which latter case such fees shall be paid to the treasurer of the village and credited to the general fund.

Compensation of police justices and constables.

§ 12. All the fines and penalties imposed by the police justice, and all moneys that shall be paid to or received by him as such, shall belong to the village of Pausville; and the said police justice shall report, on oath, to the trustees at the first regular meeting thereof in each month, during the term for which he shall be elected, the number and name of persons fined by him, and the names of persons against whom judgments shall have been rendered by him, for any penalty or penalties, with dates and amounts of such fines and penalties, respectively, and all moneys collected or received by him as such police justice for fines or penalties or otherwise; and he shall also pay the treasurer of said village, as hereinbefore provided, all moneys received by him which are hereinbefore declared to belong to said village; and any neglect to comply with the provisions of this section shall be good ground for the removal from office of such police justice. The said police justice may be removed by the county court of Livingston county for official misconduct, neglect of, or unfaithful or insufficient performance of any of his duties, on charges preferred by said trustees; or by any one or more electors of said village; but notice of such charges against him, and an opportunity of being heard in his defense, shall first be given in such manner as said court, or the judge thereof, shall direct. Should such police justice also be a justice of the peace, he shall be held and presumed to be acting as police justice, in all matters

Fines, etc., to be levied to village.

Justices to report.

Removal of justice.

before him, of which this charter confers jurisdiction upon him, as such police justice.

Docket to
be open
for in-
spection,
etc.

§ 13. All dockets and books kept by said police justice shall at all times be subject to the inspection and examination of the village attorney, president, trustees, or either of them, and it shall be the duty of the police justice to produce such docket or books whenever and wherever the trustees shall direct, and if he shall fail to produce the same as required, the county judge of Livingston county may, on application to him for that purpose, make an order requiring the same to be produced, and enforce obedience thereto, or punish disobedience thereof, in the same manner as he may in reference to other orders issued by him; and, at the expiration of his office, such police justice shall deposit his docket and books and papers which refer to business, that has been before him as such, with the village clerk.

Duty of
attorney.

§ 14. The attorney of said village shall prosecute and defend all actions brought by and against said village, and render such other professional services connected with the affairs of said village as may be required of him by law, or by the president of said village, or by said trustees.

Regula-
tions for
sale of
goods at
auction,
etc.

§ 15. The trustees of said village are hereby authorized and empowered to make regulations, by ordinance or otherwise, for the sale of goods and property by auction, in the streets and vacant or unoccupied lots within the territorial limits of said village, and goods or property of any kind shall not be sold or exposed for sale at auction, in the streets and vacant or unoccupied lots within said village, except in pursuance of such regulations, and the payment of such tax or license as may be prescribed by said trustees. The said trustees may prescribe penalties for the violation of the provisions of this section which may be enforced as other penalties are enforced, for the violation of the ordinances of said village, as now provided by law.

Inconsis-
tent acts
repealed.

§ 16. All the provisions of the charter of the village of Dansville, in conflict or inconsistent with the provisions of this act, are hereby repealed.

§ 17. This act shall take effect immediately.

CHAP. 286.

AN ACT to amend the charter of the village of Clinton.

PASSED April 23, 1873; three-fifths being present.

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

Section 1. Chapter three hundred and twenty of the laws of eighteen hundred and sixty-six, entitled "An act to amend and consolidate the several acts in relation to the village of Clinton," is hereby amended so as to read as follows: Section eight, subdivision twenty-four, is hereby amended so that it shall read as follows:

Fire
limits etc.

24. To provide against the erection of unsafe buildings, and to compel the repair or removal of such buildings; and they shall have power to designate, by ordinance, from time to time, the limits in said village, within which wooden buildings shall not be erected or placed without the permission of said trustees; and to direct that all or any of the buildings within the limits so designated shall be made or constructed of stone, brick, or other fireproof material, with fire-proof partition