

L A W S
OF THE
STATE OF NEW YORK,
PASSED AT THE
SEVENTY-THIRD SESSION
OF THE
LEGISLATURE,
BEGUN THE FIRST DAY OF JANUARY, AND ENDED
THE TENTH DAY OF APRIL, 1850, AT
THE CITY OF ALBANY,

WITH
MARGINAL NOTES AND A GENERAL INDEX,
AND THE

NAMES AND RESIDENCES OF THE JUDGES, SURROGATES,
COUNTY CLERKS, SHERIFFS, AND DISTRICT AT-
TORNEYS OF THE STATE OF NEW YORK.



ALBANY:
LITTLE & COMPANY, LAW BOOKSELLERS,
1850.

years one thousand eight hundred and thirty-nine, one thousand eight hundred and forty-two, one thousand eight hundred and forty-five, and one thousand eight hundred and forty-eight, by reason of breaches in the Chenango canal, where the same crosses his lands. In case the said appraisers, in such examination, shall find and ascertain that the said Joseph Ogden hath, by reason of such breaches, sustained any damages, for which he is equitably and justly entitled to compensation from this state, then the said appraisers are hereby authorized and required to ascertain and award the amount of the damages, only for which they find he is and justly equitably entitled to compensation from this state; but nothing in this section contained, shall be construed to authorize the said appraisers to assess damages in respect to any injury which has heretofore been presented to and passed upon by the canal appraisers. And it is hereby further provided and directed, that such finding and appraisal, and the award thereon, shall be subject to the provisions of the statutes in relation to the appraisal of damages in other cases, and subject to the like appeal as in other cases.

Award how made.

Proviso.

§ 2. The treasurer shall pay, on the warrant of the auditor of the canal department, any sum awarded to the said Joseph Ogden in pursuance of the first section of this act, out of any money in the treasury appropriated or to be appropriated to the payment of canal damages.

Appropriation.

Chap. 76.

AN ACT to revise and consolidate the laws in relation to the village of Whitehall.

Passed March 16, 1850, "three-fifths being present."

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

§ 1. That district of country in the town of Whitehall, in the county of Washington, comprised within the following specified boundaries, viz: Beginning at the southeast corner of a lot of land known as Whiteford farm, and sold by said Whiteford to John H. Boyd, now occupied by G. W. Ruggles; thence running westerly along the south line of said lot, and on the south line of the lots of John H. Boyd, and continuing the same to Wood creek; thence up Wood creek to the south line of the lot owned and occupied by

Boundaries of the village.

Jeremiah Adams, deceased, in his lifetime, and along said line to the southwest corner thereof; thence west to the waters of South bay so called; thence northerly along the shores of South bay, to its mouth, where it intersects the waters of Lake Champlain; thence along the channel of said lake and East bay, so called, on the dividing line between the states of New York and Vermont, to McCotter's bridge, so called; thence southerly in a direct line to the northeast corner of the said Whiteford lot; thence along the east line of said lot to the place of beginning, shall constitute and be designated as the village of Whitehall.

§ 2. The inhabitants of said village shall be a corporation, by the name of the village of Whitehall; and as such shall have perpetual succession, and may sue and be sued, prosecute, complain and defend in any court, and may take and hold all real and personal estate and property that may be conveyed to them for the purposes mentioned in this act, or to accomplish the purposes for which such corporation was created; and may make and use a common seal, and alter it at pleasure; and whenever the trustees of said village shall be authorized to commence any suit or bring any action, or institute any proceedings under and by virtue of this act, or any by-law or ordinance made in pursuance thereof, the same shall be commenced, brought or instituted in the corporate name of said village.

At the annual meeting of the electors of such village to elect village officers, or any special meeting of said electors, called as provided by this act, the legal voters in said village shall have power, and may by resolution direct the trustees to cause to be raised by a general tax upon the taxable property in said village, liable to be assessed for taxes, for the purposes hereinafter specified or mentioned in this act, and for no other: Provided, that said electors shall not vote to raise any tax at a special meeting of said electors, unless the notice of such special meeting shall specify the amount and objects of such tax, and the specific sum required or proposed to be raised for each object, and shall state that such special meeting will be called upon to vote in respect to raising the sum or sums so specified.

§ 3. The inhabitants of said village entitled to vote at any general election in this state, shall meet on the first Monday of February, one thousand eight hundred and fifty-one, and annually thereafter on the first Monday of February, and by ballot and plurality of votes elect five trustees, one clerk, three assessors, one treasurer, one collector, and a harbor master. One paper ballot shall contain, written or printed,

Corporate name.

Power to vote taxes.

Trustees and other officers to be elected.

or partly written and partly printed, the names of all persons for whom the elector intends to vote, designating the office to which each person so named is intended to be chosen; but no ballot shall contain a greater number of names of persons designated to any office, than there are persons to be chosen at that election. And if for any reason there is a failure to elect any or all of such officers at such election, such election shall be continued by proclamation of the clerk or presiding officer, until nine o'clock in the forenoon of the next day, for the purpose of filling such offices as were not filled; and the proceedings shall be conducted in the same manner as on the first day, as far as shall be necessary to fill such offices as were not filled. The trustees in office at the time of such election shall be inspectors of such election, and the president shall preside, and in his absence the trustees shall appoint one of their number chairman; and the clerk of said village shall be clerk of such election, and if absent the inspectors shall appoint a clerk of said election; and such elections shall be conducted in all respects, as near as may be, as elections of state officers are required to be, and the inspectors shall have the same powers and authority as inspectors of elections in towns.

§ 4. Every officer elected or appointed under this act shall, within ten days after notice of his election or appointment, take and subscribe the oath required by the sixth article of the constitution of this state; and upon neglect or refusal to take such oath, shall forfeit to the said corporation the sum of five dollars. Oath of of-
fice.

§ 5. It shall be the duty of the trustees, or a majority of them, within ten days after their election, to assemble in some convenient place, in said village, to be designated by the clerk, and there to choose and appoint some one suitable person of their body to be president of the said board of trustees; whose duty it shall be, when present, to preside at the meeting of the trustees; to order extraordinary meetings of the trustees whenever he shall think proper; to receive complaints of the breach of any laws; to see that the by-laws, rules and ordinances are faithfully executed and observed, and to prosecute, in the name of the trustees, all offenders against such by-laws; and whose duty it shall be more particularly to see that the public property, belonging to the said village, be suitably taken care of, and kept in order, and to do such other acts and things as may be proper for him as president of the board of trustees to do; and in case of the death or disability of such president, the said trustees shall proceed to choose out of their body a successor in Trustees to
elect a presi-
dent.

manner as above mentioned; and it is hereby made the duty of the said trustees to keep or cause to be kept a record of their doings, especially of the passing of their by-laws, rules and regulations.

Special meetings.

§ 6. The trustees shall have the power to call special meetings of the inhabitants of said village, which meetings shall be called and conducted in the same manner as annual meetings; and a call for a special meeting shall at any time be made upon the application, in writing, of twelve freeholders therein, stating the object of such call.

§ 7. The trustees of said corporation shall have power, and it shall be their duty,

Streets and sidewalks.

1. To prevent and remove obstructions and encroachments upon the public streets, squares, landing places and sidewalks; to regulate, grade, pitch and curb the same, and to plant and protect trees in said village; and any expense incurred in suits instituted to prevent or remove obstructions or encroachments, shall be paid out of the contingent fund.

Animals at large.

2. To prevent and restrain cattle, horses, sheep, swine and other animals, from running at large in said village.

Running of horses, firing guns, &c.

3. To prevent immoderate riding, driving or running of horses or other animals; to regulate and prevent the firing of guns, squibs, crackers or other preparations of gunpowder or other combustible materials therein; and to prohibit the keeping of more than twenty-five pounds of powder in any shop, store, house, or other building.

Highway tax.

4. To superintend and direct all public improvements and expenditures upon the streets, sidewalks, public squares and places of said village, and may appropriate and expend all moneys raised for highway tax for such purposes.

Fire apparatus.

5. To purchase fire engines, hooks, ladders, buckets and other apparatus; to make, establish and regulate public wells, cisterns, reservoirs, conduits and pumps, for the prevention and extinguishing of fires; and to take, hold, purchase and convey such real and personal estate as may be required for erecting engine, hook and ladder houses; for digging and making such sisterns, reservoirs and conduits, and also a room of convenient size for an office for the clerk of said village, and purchase the furniture, desks, and cases necessary therefor; and procure a suitable map to be made of the said village, to be kept in the clerk's office, and cause copies to be made thereof if they think necessary; and to cause the village property to be kept in repair, and insured against loss by fire; and, in their discretion, require the owners of dwelling houses, shops, stores and other buildings, to pro-

vide and keep on hand one or more buckets to be used in case of fire.

6. To compel the inhabitants of said village, and any bystanders, to form ranks or lines to convey water for the extinguishing of fires in said village, and to aid and assist the firemen in working their engines, hooks, ladders and hose thereat; and any person (other than firemen) refusing to obey the orders of the trustees for the above mentioned purposes, shall be subject to a fine of not more than three dollars.

Inhabitants to assist at fire.

7. In their discretion, for the prevention of fires, the protection of property, the prevention of crime and breaches of the peace, to cause a night watch to be kept in said village, provided that no larger sum than two hundred and fifty dollars be raised in any one year for such purpose; and the policemen of said village, while on duty, are hereby vested with the same powers that the police constables of said village possess under this act: and to cause the streets of said village, or such of them as they think necessary, to be lighted during the night, and to cause such standard and lamps to be placed for that purpose as they may deem necessary, and protect the same by suitable penalties, and make by-laws in relation to the same; and may enter into contracts with one or more persons for lighting said streets, provided no more than two hundred and fifty dollars shall be expended towards such objects in any one year, except for procuring the apparatus to sustain the lights.

Watchmen, and lighting of the streets.

8. To make, construct and repair sidewalks, drains and sewers in the streets and lanes of said village.

Sewers.

9. To fill all vacancies that may occur in any of the offices created by this act, except trustee.

Vacancies.

10. To make, alter and amend all by-laws and ordinances not repugnant to the laws of this state or of the United States, which they may deem necessary to carry into effect the provisions of this act; to fix the fines, forfeitures and penalties; to enforce the same, not exceeding ten dollars for any one offence, except where otherwise provided in this act; and the trustees may in their discretion remit the whole or any part of any such fine, forfeiture or penalty.

Trustees may amend by-laws and remit fines.

11. To erect or lease a public pound, and prescribe the rules and regulations thereof, and the mode and manner of impounding animals; to appoint a pound-keeper, who shall be entitled to the same fees, and shall have the same power and duties that pound-keepers of towns by law now have.

Pound.

12. And to purchase or lease a suitable site or sites for one or more markets, and erect or fit up suitable buildings for the same, and prescribe the rules and regulations thereof,

Markets.

and rent and hire out the same in such manner and for such rent as will be most for the benefit of said village, and receive, collect and sue for the rents, issues and profits thereof; and the funds to establish said markets may be raised by general tax, or the trustees are hereby authorized to raise the funds necessary therefor by a mortgage upon such market or markets, and the pledge of such rents, issues or profits for the extinguishment of the interest and principal of the funds so raised, and to secure the payment of which such mortgage shall be given; and after such fund shall have been paid and extinguished, the rents and profits of such markets shall be paid into the contingent fund of said village.

Police constables.

13. They shall also annually appoint two police constables, who, within their limits, shall have the same power, and be subject to similar duties in criminal cases as constables in the town of Whitehall, but their jurisdiction shall not extend to offences committed beyond the corporate limits of the village; and they shall have power, by virtue of such appointment, to serve any process in actions to recover any penalties for violation of this act, or the ordinances or by-laws of the village. It shall be their especial duty to arrest any and all persons in the village guilty of any crime, misdemeanor, or offence against the peace and good order of society; and if any such arrest be in the night time after nine o'clock in the evening, to guard such offenders safely till morning light, and then take them before a magistrate to be dealt with according to law; and for every such arrest in the day time or before nine o'clock in the evening, followed by a subsequent conviction for the offence charged, the police constable shall receive a fee of fifty cents; and if the arrest be in the night time after the hour aforesaid, his fee shall be one dollar, if conviction follow, to be paid by the village. Police constables shall also be strictly bound to take notice of any unnecessary noise or disturbance in the streets or other places in said village, particularly in the night time; to admonish offenders, and, if the offence be of sufficient magnitude, to arrest them. The trustees shall give these constables the preference to stand as watchmen in the night, provided they will perform the duty on terms as favorable as others equally competent. For any other services they render as conservators of the peace and good order of the village, they shall be entitled to receive such compensation as the trustees deem reasonable.

Power to build a lock-up.

14. And said trustees shall have power, if authorized by a majority vote of the electors of said village, at a general or special meeting of said electors, to rent and fit up a suitable building, or purchase a site and erect thereon a suitable build-

ing for the confinement of all persons charged with any offence against the laws of this state, while awaiting trial or examination, and for confinement and safe keeping of all persons who may be committed thereto, or have been directed to be confined therein, by any justice of the peace, for any offence or violation of the laws of this state, or by-laws or ordinances of the village, committed within said village, for which a justice of the peace is now or may be hereafter authorized, with or without a jury, to try, convict and sentence; but no more than one thousand dollars shall be raised for the purchasing such site, and erecting such building thereon; and said trustees may appoint, and remove at pleasure, suitable persons to take charge of such place of confinement, and of the persons committed thereto, and may contract with such person or persons in regard thereto, and the expense of keeping up said place of confinement shall be called one of the contingent expenses of the said village.

15. The trustees shall have power to license public porters, cartmen and hackney coachmen and omnibus drivers, and establish rules and by-laws in regard to their conduct as such, and establish rules and regulations in regard to the landing of all persons and property at any landing in said village, and prevent the landing of any persons or property upon the highways of said village; to regulate the speed of running cars, carriages and engines upon any railway in said village, and to prevent any unnecessary noise and disturbance during the arrival and departure of any persons in said village in public conveyances. And said trustees shall have the sole power to grant licenses or permits to any person or persons to exhibit any caravan, menagerie, show, circus, artificial or natural curiosity in said village and may require from the person or persons desiring such permit or license, the payment of a sum not less than five or more than twenty-five dollars, to said trustees, as the condition of granting such license or permit, for each day or part of a day, such exhibition may continue.

16. The trustees of said village are constituted a board of health and quarantine, and are authorized and empowered to do all things meet and necessary to protect the lives and health of the citizens and sojourners in said village, so far as cleanliness, ventilation and purification is concerned; and may establish pest-houses and hospitals, and require all persons infected with the small pox to be removed thereto; and may establish regulations for the periodical vaccination of the children residing in said village; and are generally empowered to use all the means and powers possessed by

boards of health and quarantine in cities, to protect the lives and health of citizens at all times, and especially during the prevalence of contagious or infectious diseases; and may make and publish all by-laws and ordinances necessary to effectuate the purposes for which they are constituted such board.

Supply the village with water.

17. If authorized by a majority vote of the electors of the village at a general or special meeting of said electors, the trustees shall have power to supply the village with water, and are authorized to direct as to the mode and place in which an aqueduct for the conveyance of water through any of the streets of said village shall be laid, and may require the material of said aqueduct to be more substantial than wood, and generally give any direction and make any regulation in regard thereto, proper to protect streets of said village from the leaks and overflows of such aqueduct, and from the frequent digging up the surface of said streets for repairing, removing and replacing said aqueduct; and if such directions shall not be complied with, the trustees may prevent the laying down of, or require such aqueduct to be taken up and removed. Provided, nothing herein contained shall affect the rights heretofore granted to others for "supplying the village of Whitehall with water."

Fire-ward one.

18. The trustees shall appoint two fire-wardens in said village, whose duty it shall be to go into all tenements where there are fires kept up for any purpose, and examine all chimneys, fire-places, flues, stove-pipes, and require such alterations to be made in the manner the same are placed, put up and kept, as either of them think necessary for security against fire. And the trustees may prescribe by-laws in relation to the manner and time in which such wardens shall execute their duties, and fix a penalty from one to twenty-five dollars, to be paid by any person who shall neglect or refuse to obey any of the lawful directions of such fire-wardens, or either of them, in relation to their duties as such wardens, or refuse to admit them into said tenements. The warrant of the trustees shall be a sufficient authority for all said wardens may do in the necessary discharge of their duties as such officers.

Bond.

19. The trustees are empowered to employ all such agents and servants as may be necessary to execute and perform the several powers, duties and privileges conferred and imposed upon them, under and by virtue of this act; and may require from any person they may appoint as such agent or servant, a bond with sufficient sureties for the faithful performance of their duties.

20. The trustees are empowered to abate all nuisances in said village; to cause all common prostitutes, upon conviction, to be confined in said lock-up, not to exceed thirty days upon any one conviction, and upon the non-payment of a fine not to exceed ten dollars; and to break up all brothels in said village, and cause the inmates to be dealt with according to law. Nuisances.

§ 8. The trustees of said village shall have power to regulate, and, if necessary, to prevent the interment of the dead in any of the burial grounds established in said village, whenever they shall deem such an exercise of power necessary to preserve the health of the inhabitants residing in the vicinity of such grounds, and may prevent the burial of the dead in the thickly inhabited parts of said village; and for a violation of any of the ordinances or by-laws of said village, ordained or passed by virtue of this act, in regard to such interments, they may impose a penalty upon the person or persons offending, as they shall deem proper, not to exceed one hundred dollars. Burying places.

§ 9. All the powers vested by this act upon the trustees of said village may be executed by any three of them, and all the duties imposed upon the trustees of said village may be performed by any three of them; and three trustees shall constitute a quorum, at all meetings of the trustees. Quorum.

§ 10. It shall be the duty of the clerk to attend all meetings of the corporation, and of the trustees; to keep the books and papers of the said corporation; to record in a book kept for that purpose, all the proceedings and resolutions of every meeting of the trustees and of the corporation; to give five days notice by publishing the same in one or more newspapers published in said village, or posting a written or printed notice thereof in five public places in said village, of all annual or special meetings of the corporation; to give due notice of trustee meetings; to notify all officers elected or appointed, of their election or appointment, within two days thereafter, unless any such person was present at such election or appointment; to keep a record of all roads which now are or may hereafter be laid out in said village; which record, or certified copy thereof, shall be evidence in any court, in the same manner as the records of the clerks of towns now are. He shall attend to the publication of all by-laws, ordinances and notices; shall keep a true account of the expenses and disbursements of the corporation, under each head or department of expenditures, and perform such other duties as the trustees may lawfully ordain or direct. He shall keep and file a poll list of the names of all persons voting at any elec- Duties of the clerk.

tion of officers of said village, or for laying a tax therein. In case of his absence from any special meeting, the inhabitants may choose a clerk pro tempore.

Harbor
master.

§ 11. It shall be the duty of the harbor master of said village, and he is hereby empowered to keep the harbor and channel of the lake in said village clear of floating and abandoned timber, vessels and waifs, obstructing the same; and to keep the slips and channel in said village open and free from all impediments whatever, for the entry and departure of boats, floats. Any property which the harbor master shall take into his custody by virtue of his office, shall be kept in some suitable place for the space of eight weeks, unless sooner delivered up to the person or persons entitled to the possession thereof; and the same shall be so delivered up upon such person or persons paying or tendering to the harbor master, or person in whose possession such property may be, a sum of money sufficient to discharge the reasonable or actual expenses incurred about the preservation and disposition of the same as required by this act, any time before the same shall be sold as herein mentioned. After the expiration of the eight weeks aforesaid, if said property remain on hand, the harbor master shall give notice that such property has been taken into his custody, and that unless the same is sooner claimed, and the expenses incurred in relation thereto up to the time of such claim as prescribed by this section be paid, he will sell the same at public vendue, at a place and time therein mentioned, and after paying the expenses aforesaid, bring the proceeds of such sale into the treasury of said village: such notice shall be published for four weeks in a newspaper published in said village, and a copy of such notice shall be put up four weeks previous to such sale, at two of the wharves in said village. If said property shall not be claimed by or in behalf of the owner or person entitled to the possession thereof, and the aforesaid expenses paid, then such property shall be sold, pursuant to such notice, to the highest bidder. The proceeds of such sale, after paying said expenses, shall be paid immediately to the treasurer of the village, and passed to the credit of the contingent fund, and shall be paid from that fund to the person to whom it belongs by the trustees, upon demand of five days: no interest shall be allowed thereon until after said five days, nor any statute of limitations apply thereto. The harbor master shall keep in the office of the clerk a book, in which he shall keep an accurate account of all he may do by virtue of his office, and particularly of the property he may take into his custody, the value thereof, the

time when received, the disposition thereof, to whom sold, and when and for what price, and the disposition of the proceeds; and the treasurer shall state, in his annual accounts, the amount he shall have received from the harbor master.

§ 12. The treasurer shall receive all moneys directed to be paid into the treasury of said corporation, and pay out the same upon the check of the clerk, countersigned by the president, and shall render an account of the state of the finances to the trustees whenever required by them; and deliver all money, books, papers and property of the corporation in his hands, to his successor on demand. Pay moneys to treasurer.

§ 13. The collector of the corporation shall collect all taxes, for which the warrant of the trustees shall be delivered to him; for which purpose he shall possess the same power, proceed in the same manner, be entitled to the same compensation as collectors of towns, and pay over all moneys collected by him to the treasurer within the time limited in his warrant. Collection of taxes.

§ 14. The treasurer, collector, harbor master and street commissioner shall severally execute to said village a bond for such amount as trustees shall direct, with two or more sufficient sureties, to be approved by the president of said village, or the trustees, conditioned for the faithful performance of their respective duties; which bond shall be duly executed, approved and filed in the clerk's office, before the person executing the same shall enter upon the duties of his office. Treasurer, &c. to give bonds.

§ 15. The assessors of said village, within sixty days after the annual meeting, shall make an assessment of all property, real and personal, within the limits thereof, in the same form as the assessment roll of towns; and they shall proceed in the same manner as the assessors of towns are required by law to do, except that they shall give only ten days notice of the time and place when and where they shall meet for the correction of said assessment. Assessment.

§ 16. The said village is hereby constituted a road district, and the trustees, ex-officio commissioners of highways therefor; they shall discharge all the duties enjoined upon the commissioners of highways in the town of Whitehall, within said village. Road district

§ 17. It shall be lawful for the trustees of said village, and they are hereby empowered to order and direct the opening, pitching, grading, regulating, paving or flagging of the streets of said village, or altering the grade of any street in all or any part of said street; and to widen, alter or amend the streets, roads or highways already laid out, to a con- Repair of streets.

venient width; and to order and direct the grading, regulating, flagging and securing sidewalks in said village, and to make and lay out other streets and roads in said village; and to order and direct the making of public sewers and drains, and of public wells and pumps in said village.

Damages
for opening
streets.

§ 18. If, in the opinion of the said board of trustees, the public interest of said village shall require that any street, lane, or alley therein, should be altered by widening or altering the course of the same, or that any new street should be laid out or opened in said village, and that the land of any person is necessary to be taken for either of said purposes (including the site of any building or buildings the expense of removing which shall not exceed two hundred dollars), the said trustees shall have power to alter, lay out and open any such streets, and shall give notice of their intention to appropriate such lands for such streets to the persons interested therein, or to his agents or legal representatives; and if any such person shall refuse to treat with said trustees for the same, or the trustees can not agree with such person therefor, the president and any two or more trustees, by a precept under their hands and seal, may command any constable of said village to return and empanel a jury of twelve disinterested freeholders of said village, neither of whom shall be of kin to the parties interested, to appear before the president of said village within six days from the time of service of such precept, inquire into and assess the damages and recompenses they shall judge fit to be awarded to the owner or owners of such ground or other real estate or appurtenances, for their respective losses, according to their respective estates and interest therein; and the verdict of the said jury, and the judgment of the said president therein, and the payment of the sum of money so awarded and adjudged to the owner or owners thereof, or the tender and refusal thereof, shall be conclusive and binding against the said owner or owners, or his or their respective heirs, executors, administrators or assigns, claiming any estate or interest therein. And all notices required to be given by this section, shall be served personally on parties resident within said village, and upon non-residents and parties unknown by advertising the same six weeks successively in any newspaper published in said village.

Tender to be
made.

§ 19. The said board of trustees shall not take possession of, or appropriate any such ground or other real estate, until after such inquiry and payment, or tender and refusal of the money so awarded as aforesaid; but on the payment of, or the tender and refusal thereof, the trustees may thereupon

cause the same to be converted to and used for the purposes aforesaid; and in order to provide for the payment thereof, the said board of trustees shall the same to be assessed upon the owner and occupants of lots and buildings to be benefited by such improvement in the manner hereafter prescribed in this act.

§ 20. Any person conceiving himself aggrieved by any assessment, or the award of any jury, by virtue of the two last sections, shall have a right to appeal within one year to three disinterested commissioners not residents of the village, to be appointed by the judge of the county court; and if such commissioners shall award a greater sum to such appellant than the sum so awarded by the said jury, said trustees may cause such excess, with all costs of the proceeding, to be collected by a new assessment upon the property intended to be benefited, and may issue their warrant for the collection thereof, which amount shall be assessed and apportioned according to the first assessment: in case said commissioners shall not award to such appellant a greater sum than the amount awarded by the jury, said appellant shall pay all costs of the appeal which may be incurred by either side in the prosecution thereof; and no such appeal shall be brought, unless the appellant shall first give or cause to be given to said trustees a bond with two sureties, to be approved by the said judge of the county court, conditioned for the payment of all such costs.

§ 21. The trustees of the village of Whitehall are hereby empowered to borrow, at a rate of interest not exceeding seven per cent, payable semi-annually, a sum of money not exceeding twenty thousand dollars, for the purpose of furnishing pure and wholesome water to the inhabitants of said village, and for the purpose of extinguishing fire therein; and to enable them to pay the interest on the money thus borrowed, it shall be their duty, within thirty days after each annual election in said village, in addition to any tax which may be voted at such meeting, to levy and collect a tax upon the real and personal property of said village, which, exclusive of collector's fees, shall amount to a sum sufficient to pay the interest on the sum so borrowed.

§ 22. Whenever the trustees shall be enabled to effect a loan for the purpose contemplated in this act, or any portion thereof, the trustees shall deliver to the person or persons making such loans, scrip under the seal of the corporation of said village, and signed by the president, acknowledging the indebtedness of said corporation to the amount thus borrowed, with interest payable semi-annually, and redeemable at such

period as shall be agreed upon by the parties interested, not exceeding twenty years; which scrip shall be a lien upon the corporate property of said village, including the aqueduct, hereinafter mentioned; and the moneys raised by tax for that purpose shall be appropriated by the trustees to the payment of the interest and principal of the said loan, and for no other purpose whatever.

Commission-
ers.

§ 23. E. A. Martin, C. Boardman and W. A. Travis shall be commissioners, whose duty, or the duty of any two of whom, it shall be to make examinations, and determine on the best modes for obtaining a supply of water for said village: they shall be empowered to cause the requisite survey and levels to be taken for that purpose; to enter upon and take possession of lands and springs, or streams of water, for that purpose, first paying to the owners all reasonable damages; to contract for and superintend the laying of an aqueduct or water pipes; to erect a reservoir or reservoirs; to affix the requisite number of fire-stocks, and generally to do every thing which they may consider necessary to furnish a supply of water for said village, either for family purposes or for the extinguishment of fire.

Possession of
lands.

§ 24. Before the said commissioners shall take possession of any lands, or streams of water, as mentioned in the preceding section, they shall obtain the consent of the owners thereof and of such persons as will suffer damages thereby; and if any person shall not give such consent, the said commissioners shall proceed to have such damages appraised in the same manner as provided in sections eighteen, nineteen and twenty of this act, for the appraisal of damages in opening or altering streets; and on a compliance with such provision, the title to the lands or water thus taken shall become vested in the trustees of the village for the purposes aforesaid. The said commissioners, before entering upon the duties of their office, shall give a bond to the trustees in double the sum to be paid over to them, for the faithful appropriation of the moneys which shall come into their hands for the purposes aforesaid, and shall account with the trustees for the manner in which such moneys have been expended, and they shall be entitled to such reasonable compensation for their services as the trustees shall direct.

Control of
aqueduct.

§ 25. After the said aqueduct and reservoirs shall have been completed, and the necessary fire-stocks affixed, the control thereof shall pass into the hands of the trustees, who shall have power to superintend the repairs, and lease or sell water therefrom to the inhabitants, upon such conditions and regulations as they shall deem proper. The moneys received for such sales shall be paid to the village treasurer by the

purchaser or purchasers, and the rents for leases shall be collected by the village collector upon the warrant of the trustees, in the manner provided for the collection of taxes, and paid over to the treasurer; the said collector and treasurer first giving respectively to said trustees a bond with two sufficient sureties in the manner provided in this act, for the faithful execution of their respective trusts, in the collection and safe keeping of other moneys.

§ 26. With the moneys thus received for sales and leases of water as provided for in the next preceding section, the trustees shall pay the interest on any moneys borrowed for the purposes of this act; and whenever such rents or leases shall amount to a sum more than sufficient to keep such water-works in repair, and to pay the interest on such sum borrowed, the surplus shall be applied to the extinguishment of the debt, either by purchasing the scrip issued for the purposes of this act, or investing the same in bond and mortgage on unincumbered real estate, at one half its valuation, for the purpose of meeting the payment of such scrip when it falls due. Interest on money.

§ 27. The said trustees shall have power to establish by-laws and ordinances for the protection and control of the water-works, springs, ponds, dams, reservoirs, pipes, corporation property connected with the water works, and to enforce the same by fines and penalties to the same extent as if said water works were all located entirely within the limits of said village. By-laws.

§ 28. The assessors may assess tenants or leases whenever the lease is for life, or any term of three or more years. Where the said assessment is made against any owner of any right or real estate in any land which is less than the fee simple, the said assessment shall specify what is the right or estate against which said assessment is made; and said assessment, when satisfied and confirmed as hereinafter mentioned, shall be a lien or incumbrance upon the right or estate of the person so assessed in said land; and in case the person so assessed shall fail to pay the said assessment within the time and in the manner by law now prescribed, his or her said right or interest in said land may be sold by said trustees, in the same manner in which the said trustees are by this act authorized to sell lands in said village for non-payment of taxes and assessments. The said assessors, after having finished making the said assessments, shall return the assessment roll and warrant aforesaid to said trustees, and the proceedings shall be had thereon by said assessors and trustees which are hereafter specified. Assessment of leases, &c

Assessment;
of leases, &c

§ 29. It shall be the duty of said assessors to apportion and assess said sum, so directed by trustees, upon all the persons and land to be benefited by the doing of the things which said trustees have determined to have done, in proportion to the separate benefit or advantage which the same will be to said persons or lands, on equitable principles, and describing the land assessed by its numbers on the map of said village, and if not numbered on said map, then describing it by boundaries; and where an assessment is made against any lot of land, the name of the owner shall be stated, or it shall be stated that his or her name is unknown.

ibid.

§ 30. The said assessors may apportion the assessment upon any particular lot of land between the separate owners of different interests or estates in said lot, on equitable principles, specifying the sum assessed to each separate owner of any interest in said land; and such assessment against the owner of any separate estate in any land shall, when satisfied and confirmed as hereafter described, be a lien or incumbrance on such particular interest or estate of said owner in said lands; and in case said owner thereof shall neglect to pay said assessment within the time and in the manner by law prescribed, his said particular interest or estate in said land may be sold by said trustees for the payment of said assessment, in the same manner in which the interest of the owners of the fee simple of land in said village is sold for non-payment of taxes and assessments.

Roll to be
returned.

§ 31. After said assessors have completed their assessments, they shall return the assessment roll and other papers to the office of the clerk of said village, and cause a notice to be published for four consecutive weeks in one or more of the newspapers published in said village, that said assessments have been completed, and are open for inspection in said office of the clerk of said village, and will remain so for four weeks next succeeding the first publication of said notice, and that the assessors will meet on a certain day to be named in said notice, at the expiration of said four weeks, at the office of the clerk of said village, to review their assessments, on the application of any person conceiving himself aggrieved; and said assessors shall grant relief to persons aggrieved, in the manner and upon the evidence now prescribed by law, and may adjourn from time to time, as often as may be necessary, not exceeding ten days in all, until they have disposed of all reasonable objections. They shall then make a fair copy of said assessment roll, and sign and certify the same and deliver it to said trustees.

§ 32. If no appeal, review, or other legal proceedings be

taken within ten days to set aside said assessment, the said trustees, after the expiration of ten days from the time of signing and certifying said roll by said assessors as aforesaid, shall ratify and confirm the same; and said assessment shall be conclusive in all proceedings thereafter had against all persons named in said assessment roll, and against all land described therein; and said assessment shall not be impeached or controverted in any direct or collateral proceedings in any court where said assessments shall come in question at any time thereafter.

Assessment roll conclusive.

§ 33. Whenever any tax shall have been directed to be levied, the assessors shall apportion the same (except when otherwise directed by this act) among the taxable inhabitants of the corporation and the non-resident owners of property therein, and any company or corporation owning property therein, in conformity as near as practicable with the provisions of the law in respect to the assessment of taxes by town assessors; and the assessors shall ascertain the amount of rents reserved in any leases in fee, or for one or more lives, or for a term of years exceeding twenty-one years, and chargeable upon lands within the village, which rent shall be assessed to the person or persons, company or corporation, entitled to receive the same, as personal estate, which it is hereby declared to be, for the purposes of taxation under this act, at a principal sum, the interest of which at a legal rate per annum shall produce a sum equal to such annual rents; and in case such rents are payable in any thing except money, the value of such annual rents in money shall be ascertained by the assessors, and the same shall be assessed in manner aforesaid; and where such rent is assessed, the assessment roll shall contain a memorandum opposite such assessment, stating that the same was for rent reserved; and when the assessment roll shall have been received and completed, it shall be delivered to the trustees, and the trustees shall deliver the same, together with their warrant for the collection thereof, to the collector; such warrant shall be made returnable in sixty days from the time of the issuing thereof, and may be renewed by the trustees from time to time, if they think necessary.

Apportionment of tax.

§ 34. If such tax or assessment upon the rents reserved shall not be paid, the collector shall levy the same by distress and sale of the goods and chattels of the person, company or corporation against whom the same are assessed within said village.

Distress for taxes.

§ 35. When it shall appear, by the return of the collector to the trustees, that any tax or assessment upon such rents

Sheriff to collect taxes.

reserved remains unpaid, the trustees shall issue their warrant to the sheriff of the county of Washington, commanding him to make, of the goods and chattels and real estate of the person upon whom such tax or assessment is imposed, the amount of such tax or assessment, together with one dollar for the expense of issuing such warrant, and to return the said warrant to the clerk's office of said village, and pay over the money collected by virtue thereof to the treasurer of said village, within sixty days after the receipt of said warrant by him.

§ 36. Such warrant shall be a lien upon, and shall bind the real and personal estate of the person against whom the same shall be issued, from the time an actual levy shall be made by virtue thereof; and the sheriff, to whom such warrant shall be directed, shall proceed upon the same in all respects with the like effect and in the same manner as prescribed by law, in respect to executions against property issued by a county clerk upon judgments rendered by a justice of the peace, and shall be entitled to the same fees for his services in executing the same, to be collected in the same manner.

Suit against
sheriff.

§ 37. In case of the neglect of any sheriff to return such warrant according to the directions therein, or to pay over any money collected by him in pursuance thereof, he shall be proceeded against in the supreme court, by attachment, in the same manner, and with the like effect, as for similar neglects in reference to an execution issued out of the supreme court in a civil suit, and the proceedings thereon shall be the same in all respects.

May recover
costs.

§ 38. If such warrant be returned unsatisfied in whole or in part, the trustees are authorized to commence an action, in the name of said village, to compel satisfaction of said rents, out of the property and equitable interests and things in action of the person against whom such warrant issued; and if a recovery is had in any such action, the plaintiff shall recover his costs and charges therein of the person against whom said warrant issued.

Lien for
taxes.

§ 39. All taxes and assessments imposed, made and confirmed, pursuant to this act, shall be a lien and charge upon the lands and premises upon which the same are assessed; and whenever any tax or assessment of any description which may be imposed on lands and tenements in the said village, shall remain unpaid on the day in which any collector is required by law and by his warrant to account for the collection of the same, and such collector shall make and annex to his return an affidavit, taken before any justice of the peace

in the said county, that the owner or owners of the premises on which the same is imposed, could not, upon diligent enquiry, be found, or that being found, he, she or they, had not sufficient personal property in the village wherein the said tax or assessment could be levied, it shall be lawful for the said trustees, in every such case, to take order for advertising all such property whereon the tax or assessment remains unpaid as aforesaid, in the two papers printed and published in said village (should there be two or more), which they shall deem to have the most extensive circulation; or should there be no paper printed in said village, then in some other paper in the county of Washington, for the space of three months, thereby requiring the owners of such lands and tenements respectively to pay the amount of such tax or assessment so remaining unpaid, to the treasurer of said village; and that if default shall be made in such payment, such lands or tenements will be sold at public auction, on the day and at the place therein to be specified, for the lowest term of years at which any person shall offer to take the same, in consideration of advancing the amount of taxes or assessments so remaining unpaid on every lot, together with all costs and charges thereon.

§ 40. If, notwithstanding such notice, the owner or owners of the premises so advertised shall refuse or neglect to pay the amount of such tax or assessment, including the interest, together with the charges attending such notice and advertisement, then it shall and may be lawful for the said trustees to cause such lands and tenements to be sold at public auction for a term of years, for the purpose and in the manner expressed in said advertisement, and to give a declaration of sale to such purchaser, under the common seal of said village; and the said purchaser, his heirs, executors, administrators and assigns, shall, by virtue thereof and of this act, lawfully hold and enjoy the same for his and their own proper use, against the owner or owners thereof, and all other persons, until the said term therein shall be fully completed and ended, and shall be at liberty to remove all buildings which he, she, or they, shall erect thereon, during said term, within one month after the expiration of said term; and in the advertisement of any sale of lands for the default in payment of any taxes or assessments, it shall be a sufficient description of the premises to be sold to designate them by the numbers of the lots respectively on the map of said village, together with the name of the street on which the same are situated, and the name of the person to whom the same are assessed, except in cases where a part of a lot is to be sold, or where the premi-

Sale of lots,
fees, &c.

ses are not designated on such map; and in such case the premises to be sold shall be briefly and intelligibly described, and the dimensions thereof stated. The said trustees shall not allow, as a part of the expenses of the sale for auctioneer's fees, more than five cents for each lot and parcel of land sold for such tax, nor more than twenty cents for each lot or parcel of land sold for such assessment, nor shall they charge more than fifty cents for each declaration of sale executed and delivered: Provided, always, that it shall be lawful for the owner or owners, or other person or persons having a legal interest therein, of any lot or lots so sold as aforesaid, at any time within two years after the sale thereof, to redeem the same, by paying to the purchaser or purchasers thereof the amount of money so advanced as aforesaid, with twelve per cent interest thereon; and provided, also, that nothing in this act contained shall be construed in any way to alter, modify, or repeal the act entitled "An act authorizing mortgages to redeem real estate sold for taxes and assessments," passed May 14, 1840; and provided, also, that in case the purchaser of any such lands so sold for taxes or assessments, can not be found within said village, then it shall be lawful for any person entitled to redeem, to pay the amount of such purchase money, costs and charges and interest to the treasurer of said village, for the use of said purchaser, his personal representatives and assigns; which amount shall be held by him, and specially set apart from other moneys, to be paid to such purchaser, his personal representatives or assigns, only by warrant in the usual form.

§ 41. It shall be the duty of all persons who shall redeem any land sold for taxes or assessments as aforesaid, to present the declaration of sale, or receipt of the treasurer of said village, or that of the person to whom such redemption money may have been paid, as the case may be, to the clerk of said village, who shall make a record of such redemption in connection with his record of the sale, with the name of the person by whom and to whom the redemption money shall have been paid without fee or reward.

§ 42. It shall be lawful for the treasurer of the said village of Whitehall, at any sale of land for taxes or assessments in the said village, held pursuant to law, to bid in for the said trustees of said village, for the use of said village, any lot of land and premises put up, for which no person shall offer to bid; and declarations of such sale shall be made to said trustees by the said treasurer, by virtue of the authority in him vested by this act, and in case of any such sale for taxes for assessments; which declaration shall describe the lands

Trustees
may bid in
lands.

purchased, and specify the term of years for which the same shall have been sold, and shall be in the same form and of the same force and effect as in case of purchases at any such sales for taxes or assessments made by individuals as authorized by this act; and such purchases shall be subject to the same right of redemption as purchases by individuals, except as hereinafter provided; and it shall be lawful for the said trustees, after the expiration of three years and not sooner, to sell, assign, and transfer any such declaration of sale made to them by virtue of this act, to any person or persons whomsoever, and upon such terms as they may deem best for the interest of said village; provided, always, that any person may redeem the same within three years from and after the date of purchase by said trustees, by paying to the said treasurer, for the use of said village, the purchase money, together with all taxes, assessments or expenses necessarily paid by said trustees on said lot or lots while the same were in possession, and seven per cent interest on all the moneys advanced by said trustees on such lot or lots.

§ 43. The trustees shall, within sixty days after the annual corporation meeting, make out a tax according to the statute providing for the raising of highway taxes by commissioners of highways; and any person neglecting or refusing to pay or work out said tax, shall be subject to the same liabilities as are now provided by law for such neglect or refusal; and the same proceedings may be had for the enforcement of such liabilities and the collection of such tax, as if provided by law, in relation to the highway tax of the town of Whitehall.

Refusal to
pay taxes.

§ 44. The trustees shall have power to appoint one or more persons street commissioners, who shall have the same powers and perform all the duties of overseers of highways in the manner and after the form required by law of overseers of highways in the town of Whitehall, except so far as relates to the expenditure of moneys collected and received as commutation for labor; which money shall be paid to the treasurer subject to the draft of the trustees, to be by them expended by contract or otherwise, in improving roads, bridges, public landing places and so forth, and for the necessary expenses incurred in protecting the same against obstruction or encroachment, but for no other purpose whatsoever; but the said street commissioner shall obey all orders and directions of the trustees in regard to the distribution and disposition of the work and labor upon the highways, bridges, landings, sidewalks and so forth, and in regard to the use and disposition of the materials of which the same are or

Street Com
missioner.

may be formed; and the trustees may remove such commissioner at pleasure, and appoint another in his place.

Fire Department.

§ 45. The trustees are authorized and empowered to establish a fire department, to consist of engine, hose, and hook and ladder companies, to appoint a sufficient number of firemen thereto, not exceeding thirty-four to each engine, ten to each hose, and fifteen to each hook and ladder company, including the officers. The companies may elect their own officers, which shall be a foreman, assistant foreman, and clerk, subject to the approval of the trustees. But this act shall not be construed to diminish the number of members of the respective companies of the fire department of said village, as now organized and in operation.

Elect chief engineer.

§ 46. The firemen, on the second Monday of January in each year, shall meet and elect a chief and assistant engineer, both of whom shall be subject to the approval of the trustees. Said officers shall have the direction of the department under the by-laws and ordinances of the trustees, and the management thereof in time of fires; and every fireman who shall, during the time of fire, neglect or refuse to obey the reasonable order of such officers, or, in case of their absence, those of their senior foreman, shall forfeit for each offence not less than five nor over ten dollars.

Duty of do.

§ 47. It shall be the duty of the engineer, immediately upon the occurrence of fire, to repair thereto and give such directions to the firemen as he may think necessary; to examine public wells, cisterns and fire apparatus, as often as once in four months; to report their condition to the trustees; advise such repairs and improvements of the same as he may think proper; call out and exercise the said companies, with their apparatus, at least once in four months; to report all violations of any ordinance, rule or regulation that relates to the organization of the department, any conduct or behavior of any fireman that shall tend to injure the service; and also report the condition of the department to the trustees, twenty days previous to the annual meeting, with such suggestions as he may think proper to ensure its efficiency. The assistant engineer shall aid and assist the engineer, and, in case of his absence, perform all his duties. If both are absent, the senior foreman shall act *pro tempore*.

Duty of firemen.

§ 48. The firemen, at every alarm of fire, shall repair immediately to their respective engines, hose, hooks and ladders, and convey them to the place where such fire may happen, and there, in conformity to the directions of their foreman, under the control of the chief or assistant engineer or senior foreman, work and manage their engines, hose, hooks and

ladders, with all their skill and power, for the extinguishing of said fire, and when the fire is extinguished, they shall return their respective engines, hose, hooks and ladders to their proper houses or places of deposit.

§ 49. It shall be the duty of the foreman of each engine, hose, hook and ladder company, to heed the directions or suggestions of the engineer in all things that relate to the good care and management of his engine, hose, hooks, ladders, and other apparatus; and each foreman shall report to the engineer, verbally or in writing as often as required, the names of all persons attached and all vacancies in his company, and such particulars as regards the good and effective management of his engine, hose, hooks and ladders, or other apparatus, and such improper conduct or behavior in any member of his company as shall tend to bring the service into disrepute. If any foreman neglect or refuse to report as aforesaid, for any such neglect or refusal, he shall forfeit and pay a sum not more than ten dollars. Duty of foreman.

§ 50. It shall be the duty of every fireman belonging to any engine, hose or hook and ladder company, to meet as often as once in a month, upon such a day as the company to which they respectively belong shall appoint, and examine, or if their foreman direct, draw out, wash, cleanse and exercise the same. Meetings.

§ 51. It shall be the duty of the foreman of each engine, hose, and hook and ladder company, to examine the engine, hose, hooks and ladders to which he may belong; to take command of the members composing his company at every stated meeting or alarm of fire; the assistant foreman at all times to aid and assist him, and in his absence to take command and officiate as foreman; and further, the clerk of each company shall keep a list of members thereof, shall call their names at every alarm of fire or stated meeting, shall note the names of absentees, collect all fines, and render an account of the same to the members of his company at any meeting thereof; and no excuse shall be taken by him for any default, except sickness or absence from the village. Duty of clerk.

§ 52. The several fire companies shall uniform themselves so as to be distinguished from citizens, and shall have power to make by-laws for their own internal government, and order and impose such fines and penalties for the breaking thereof by any of their members, as they may deem proper; and all such fines and penalties may be collected by their clerk. But in case any fireman shall neglect or refuse to pay such fines or penalty to their clerk, the clerk shall re- Uniform.

port such neglect or refusal to the trustees, whose duty it shall be to prosecute such delinquent.

Exemption. § 53. Each person appointed a fireman shall, during his continuance in office, be exempted and privileged from being empanelled on any jury or inquest, and from military duty, except in cases of war or actual invasion; and for this purpose, the name of each fireman to be appointed by virtue of this act, shall be entered by the clerk of the village in a book to be kept by him for that purpose, and his certificate shall be sufficient evidence in all courts and elsewhere, of his said exemption and privilege.

Penalty for injury of apparatus. § 54. If any person shall injure any of the fire engines, apparatus or implements used at any fire, and belonging to the public, or in public use, or any of the houses in which they or any of them may be placed or kept; or shall injure any fire-buckets wantonly and maliciously; or shall obstruct or hinder in any manner free access to the engines, hose, hook and ladder carriages; or shall obstruct or hinder, at any alarm of fire, the free and open conveyance of the same through the streets; or shall injure or remove any fire-hook, ladder, hose or engine, from its proper place of deposit, except at an alarm of fire, or by order of the proper officer, for the purpose of cleaning, repairing or exercising, or other necessary purposes, he shall forfeit and pay a sum not exceeding twenty, nor less than five dollars.

Appropriation for repairing apparatus. § 55. There shall be annually appropriated and expended in repairing and cleaning the machinery and apparatus of each company of the fire department, under the direction of the trustees, a sum equal to the amount of the money collected from the members of each company respectively, for fines and penalties during such year.

Duty of officers. § 56. Upon the breaking out of any fire, the trustees, together with the constables in said village, shall repair to the place of such fire, and direct in the removal and securing of goods, and preventing the same from being stolen or destroyed; and the trustees, or either one of them, if necessary, shall select and compel any persons, other than firemen, to watch over and protect from plunder or injury any goods so removed; and any person refusing to obey or comply with such order, shall be liable to a fine of five dollars.

To take effect. § 57. This act shall not affect the fire department of said village already organized, or annul the several constitutions and by-laws under which they are organized, until the trustees by resolution shall so order.

Impounding. § 58. Any person may take up any cattle, horses, sheep, swine or other animals which may be found doing damage



or running at large in said village, and may put them immediately in the pound, and may then proceed to recover for the damage done by any such animal, or the penalty incurred by their running at large; and it shall be the duty of the pound-master to receive such animal and detain it in the pound, until the same shall be discharged according to law.

§ 59. The trustees shall make an annual statement of all moneys received into the treasury, specifying the items and the manner in which the same has been expended, separating the amount received and expended on account of highways from all other taxes; which statement shall be filed with the clerk of the village previous to each annual election, and publicly read to the inhabitants before opening the polls. They shall further furnish the meeting with an estimate of the amount they may think necessary for the current expenses of the succeeding year, specifying the different objects for which such estimated appropriation will be required; all of which shall be published in one or more newspapers printed in said village, one week previous to such meeting.

Statement of receipts and expenditures.

§ 60. The trustees of the corporation, while performing the duty as commissioners of highways, shall be entitled to the same pay per day as commissioners of highways of the town of Whitehall; but shall not be allowed a compensation for any other services. The street commissioner, as a compensation for his services, shall be allowed the sum of one dollar and twenty-five cents for each day actually and necessarily employed by him in performing the duties of street commissioner; and in addition thereto, he shall receive two per cent upon all sums less than ten dollars of commutation moneys collected by him and paid over to the treasurer. The harbor master shall be entitled to receive, as his compensation, one dollar and twenty-five cents for each day actually and necessarily spent by him in the duties of his office, and such further sum for the pay of assistants and disbursements as the trustees may allow to be paid out of the money received by him in discharging the duties of his office.

Pay of highway commissioners, &c.

§ 61. The clerk shall receive the same compensation as town clerks are entitled to for similar services, and fifty cents for every warrant he shall issue, and to twenty-five cents for every person appointed fireman for every new certificate of membership: such certificate shall be countersigned annually by the clerk without charge. He shall also receive twenty-five cents for every certificate or exemplification of any paper on record, and seven cents a folio for copying the same, to be paid by the person demanding it; and the trustees

Town clerk

may give him a reasonable sum in addition to such fees, not exceeding twenty-five dollars, for his compensation.

Fire-wardens.

§ 62. The fire-wardens shall each be entitled to receive, as a compensation for their services, one dollar a day for such time as they may be actually engaged as such wardens, for a time not exceeding ten days.

Treasurer.

§ 63. The treasurer shall be allowed one half of one per cent on moneys that he shall receive, and the same per cent for that he shall pay out to discharge the debts of the corporation, but nothing on which he may be required to pay over to his successor.

Sidewalks.

§ 64. No person shall erect any sidewalks opposite their premises in said village, higher or lower, or of a different pitch than that designated in or by the grade established by the trustees; and any person so offending, shall forfeit a sum not less than twenty dollars for every such offence.

Obstructions.

§ 65. No person shall place or deposit on the sidewalks, in the public streets, lanes, alleys, squares or landing places in the village, unless by permission of trustees, any lumber, wood, stone, sand, rubbish, vehicle of any description, or any other article that may encumber the same; and any person refusing or neglecting to remove such article or articles immediately and with all reasonable despatch, upon the written or printed order of the trustees or street commissioners, shall forfeit a sum not less than three dollars.

Justice of peace.

§ 66. The justices of the peace of the town of Whitehall, who shall reside within the corporate limits of said village, shall have power and jurisdiction to issue process, try, and render judgment in any action instituted by the trustees of said village, to recover, collect and enforce any fines, forfeitures or penalties incurred by any person for the violation of any of the provisions of this act, or the by-laws and ordinances at any time adopted by the trustees of said village; and all the fines, forfeitures and penalties incurred for a violation of this act, or the by-laws and ordinances aforesaid, shall be paid into the treasury of said village.

Competency of witnesses.

§ 67. No person shall be an incompetent judge, juror, justice, constable or witness, by reason of his being an inhabitant of said village, or freeholder thereof, or tax-payer therein, in any action or proceeding in which said corporation is a party or shall be interested.

Fines and imprisonment.

§ 68. Any person who shall be tried and convicted before a justice of the peace, for an offence committed in said village, may, if he shall not be sentenced to pay a fine not exceeding twenty-five dollars, or to be imprisoned in the county jail, be sentenced to pay a fine not to exceed twenty-five dollars;

and if such fine be not paid, that such person so fined be confined in said prison, not to exceed thirty days, or until said fine be paid; and all persons confined in said prison may be placed under the charge of such person or persons as the trustees shall appoint, and made to perform such reasonable labor and service as the trustees may prescribe, for the benefit of said village; and for the purpose of performing such labor and service, the persons so imprisoned may be removed from place to place in said village. All fines imposed by a justice of the peace for any offence committed in said village, if the same shall be paid or collected, shall be paid over to the treasurer of said village for the benefit thereof, and to be applied by the trustees towards defraying the expenses of the police establishment of said village.

§ 69. All moneys which shall belong to said village, or come into the hands of the treasurer thereof (except such as shall be ordered to be assessed and collected for a specific purpose or object), shall be designated the contingent or general fund of said village; and there shall be charged upon that fund, and be made payable therefrom, the expense of maintaining the police, and health and fire departments of said village, and the fees and pay of officers, except where this act directs a different mode; the expenses of keeping the public property insured and in repair, and all other incidental, contingent and ordinary expenses of said village, incurred according to the provisions of this act, and to carry out its several powers and privileges; and the expenses so chargeable upon said fund, may be denominated the contingent or the general expenses of said village. The disbursements and expenses of said corporation for opening and widening, regulating and repairing the streets in said village, and flagging and planking the sidewalks thereof, shall be denominated and considered street expenses.

Moneys how appropriated

§ 70. Whenever any notice shall be given, posted or published, pursuant to the provisions of this act, it shall be the duty of the person giving, publishing, or posting such notice, to furnish proof thereof by affidavit, to be filed with the village clerk; which affidavit, or a copy certified by the clerk, shall be evidence of the facts contained therein.

Proof of notices.

§ 71. All warrants issued by the trustees shall bear date, and be presumed to be issued upon the day of their date, and shall be under the hand of at least three of the trustees, and under the seal of said village.

Warrants.

§ 72. The original book of records of said village may be read in evidence in all courts and upon all judicial proceedings, as evidence of any thing therein contained

Records to be read in evidence.

to record therein; and an exemplification or certified copy, under the hand of the clerk and seal of said village, of any part of such records, or of any paper, instrument, warrant, roll or other thing required to be filed in the office of said clerk, may be read in evidence, with the same effect as the original, in all courts and judicial proceedings of this state.

Former acts repealed.

§ 73. All former acts relating to the village of Whitehall are hereby repealed; but such repeal shall not effect any act done, or right secured or established, or any suit, proceeding, or prosecution had or commenced previous to the time when such repeal shall take effect; but every such act, right or proceeding shall remain as valid and effectual as if said acts had remained in force; and all officers elected or appointed under or by virtue of any act hereby repealed, shall continue in office until their successors are elected or appointed according to this act; and all estates, real and personal, vested in or belonging to the village of Whitehall, when this act shall take effect, shall continue to be vested in and belong to said village.

To take effect.

§ 74. This act shall take effect immediately; but the first election thereunder shall be held on the first Monday of May in the year one thousand eight hundred and fifty, and all officers elected thereat shall perform the duties of their respective offices as required by this act until the first Monday of February in the year one thousand eight hundred and fifty-one, and until their successors to be elected on that day are duly qualified to act.

Chap. 77.

AN ACT to amend the act entitled "*An act in relation to common schools in the village of Lockport,*" passed March 31, 1847.

Passed March 18, 1850.

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

Act of 1847 unaltered by the free school act.

§ 1. The provisions of the act entitled "*An act in relation to common schools in the village of Lockport,*" passed March 31, 1847, are not, and shall not be deemed or adjudged to be, or to have been, affected, altered, or impaired by the act entitled "*An act establishing free schools throughout the state,*" passed March 26, 1849.